Public Utilities

Volume XLV No. 5 March 2, 1950

PUBLIC UTILITIES REPORTS, INC., PUBLISHERS

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Barber Burners For Warm Air Furnaces, Steam and Hot Water Boilers and Gas Appliances

Public Utilities FORTNIGHTLY

VOLUME XLV MARCH 2, 1950 NUMBER 5

ARTICLES

FEATURE SECTIONS

PUBLIC UTILITIES REPORTS, INC., PUBLISHERS

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PUBLIC UTILITIES FORTNIGHTLY.. stands for Federal and state regulation of both privately owned and operated utilities and publicly owned and operated utilities, on a fair and nondiscriminatory basis; for nondiscriminatory administration of laws; for equitable and nondiscriminatory taxation; and, in general—for the perpetuation of the free enterprise system. It is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.

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Pages with the Editors

THE recently released printed proceedings of testimony before the House Appropriations Subcommittee on the Interior Department revealed some interesting indication of official thinking about the relationship between Federal government and the private power industry. During these hearings, the director of the Southwestern Power Administration, Douglas Wright, made a convincing argument to the effect that his bureau was attempting to work out contracts with private power companies so that both the public and private agencies might live and thrive in coöperation instead of misunderstanding and hostility.

WRIGHT complimented the power company officials in the Southwest for trying, in good faith, to work out such arrangements to protect their own stockholders as well as promote Federal power policies—at the same time saving taxpayers money.

As a result of these tentative contracts, Wright expects that his agency will turn back to the Federal Treasury between $5,000,000 and $7,500,000 not needed to build unnecessary lines. Wright further claimed to be following a directive which the Congressmen gave him last year to make every effort to work out deals with the private companies.

JOHN P. CALLAHAN

A RÉSUMÉ of Wright's testimony before the House subcommittee is contained in the review department of this issue. (See page 312.) It is reassuring as far as it goes. It means that an important Federal official believes a way can be found by which public power companies and private companies can live in peace and expand in the southwest area without injuring each other. Wright admitted that the alternative would be socialization, which he opposes.

WHAT can be said of the more recent revelation that Southwestern Power Administration was at the same time carrying on negotiations to get steam-generated electricity and the use of transmission lines to be built with Federal financing? True, Southwestern Power Administration was not itself running out on its agreements with the private companies by planning to build its *own* lines. But the administration was at least cognizant of an arrangement whereby the funds of the Rural Electrification Administration would be loaned to so-called "super coöperatives" for the building of such facilities to be operated by the Southwestern Power Administration under 40-year lease agreements with option to buy.

THREE of these projects have now been approved by REA at a cost of approximately $40,000,000 — one in Missouri, two in Oklahoma, and a fourth pending in Arkansas. Some analysis of this seemingly double-dealing type of arrangement is to be found in the "Washington and the Utilities" department of this issue. (See page 297.) The fact that power obtained from one of these coöperatives will cost Southwestern Power Administration more than twice the rate it will pay to business-managed companies under contracts now being negotiated, challenges the good faith of the professed spirit of coöperation in which these deals were

conducted. What was the ultimate object? To get power to the people at the cheapest cost? Or to spread public ownership at any cost?

A CRITICAL view of these developments would be that they suggest a deliberate plan to take funds, appropriated for private electricity to unserved farmers, and divert them to operations which could be accomplished at less cost, through genuine coöperation, in the form of contracts by the Southwestern Power Administration and the local companies. There arises the question of whether the "super coöperatives" are not instruments for diverting REA loans to Interior Department purposes for which Congress has failed to make regular appropriations and authorizations directly to the Interior Department.

ALMOST since the Southwestern Power Administration first began its program of expanding, Interior officials have complained that they are bargaining at a disadvantage with the power companies. Two years ago when the Texas Power & Light Company signed a contract, there was hope that a pattern had been found for a peaceful accord between the government and the power companies in the Southwest.

BUT last year, the Interior Department asked for a big stick (in the form of funds which might be used to build government transmission lines) to deal with other power companies. In subsequent negotiations, Southwestern Power Administration used its stick assiduously and obtained many concessions in tentative contracts.

THE Oklahoma contracts featured an agreement whereby the administration and the companies would "exchange" power in such a way as to avoid the need for building duplicate transmission facilities. The contracts made no effort to impose a common carrier status on the companies which would obligate them to carry power on their lines which they did not own.

As evidence of good faith, one power company applied to the Federal Power Commission for permission to sell a length of its transmission line to the Interior Department. In the face of such understandings — in contracts that still lacked the final approval of the Secretary of the Interior—a policy of collaboration with a "super co-op" network, which would make available newly constructed lines for operations by the public agency under the ownership of another name, is puzzling to say the least.

THE opening article in this issue, by W. D. WORKMAN, JR., state correspondent for *The News and Courier*, Columbia, South Carolina, deals with the Southeast rather than the Southwest. But it deals with a situation that furnishes a pretty good example of how an REA "super co-op" loan can expand the operating scope and facilities of an existing public ownership agency indirectly for purposes which the agency could not legally justify direct ownership and operation. This situation covers the celebrated Santee-Cooper program in the state of South Carolina, where state law has laid down definite limitations. MR. WORKMAN'S story of the manipulations which have developed in the Santee-Cooper situation may be an eye opener to those who like to be idealistic on the subject of public ownership and operation of electric power facilities.

* * * *

SCARCELY a day goes by that doesn't bring us news of more and bigger plans for natural gas pipelines seeking to serve the rich eastern coastal market. Specifically, in the New York city metropolitan area the steady march of natural gas has challenged the attention of the gas industry. Beginning on page 275, JOHN P. CALLAHAN, utility news editor of *The New York Times*, has written about this peaceful invasion of the nation's largest urban center and the high financial and regulatory stakes involved. It isn't just a New York city problem either. Boston, Baltimore, and other eastern cities are involved.

THE next number of this magazine will be out March 16th.

The Editors

Coming IN THE NEXT ISSUE

★

QUODDY TIDAL POWER FOR NEW ENGLAND AND NEW BRUNSWICK?

The controversial Passamaquoddy project for utilizing tidal currents in the Bay of Fundy has been recently revived by a recommendation of President Truman to Congress for the creation of a special commission to study New England's hydroelectric power potential and allied subjects. It is not generally understood, however, that there is an international alternative for the all-American plan for "Quoddy" development—which has been judged too expensive. Lincoln Smith, political economics instructor, who has made special studies of the "Quoddy" situation, brings us down to date on its latest possibilities from an international standpoint.

A 5-DAY WORKWEEK FOR BUSINESS WITH 7-DAY JOBS

A public utility, by its very nature, serves seven days a week. Gas, electric, telephone, and transit—never have a holiday or a holy day or a feast day to the point of suspending operations. On the contrary, public holidays frequently augment the normal load of any public service operation. Joe R. Ong, consulting transportation engineer from Cincinnati, Ohio, writes an account of a plan which has proved successful in rotating 5-day workweeks for the personnel of the Cincinnati Street Railway Company. It is an easily understood method, well worth at least a double-check comparison with similar practices of other utility companies.

THE WORLD POWER CONFERENCE

In 1936 the third World Power Conference was held in this country. In 1950 the fourth World Power Conference convenes in London. Here is a description of the international setting for both meetings, with special notice of the problems created by current socialistic trends. J. A. Whitlow, former director of public relations for the Public Service Company of Oklahoma, has sketched a brief but interesting vignette about the background of both meetings.

WHAT ELSE IS GAS GOOD FOR?

Although synthetic chemicals are still but a small part of the natural gas industry's business, the annual value of crude products from petroleum and natural gas operations in the United States has reached nine figures and is still going strong. T. N. Sandifer, technical editor for Washington trade publications, has taken official statistics to give us an account of the growing value and importance of by-product materials in the gas production field.

★

Also . . . ***Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.***

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

PAUL H. DOUGLAS
U. S. Senator from Illinois.

"I have yet to see any government agency which is cut right down to the core."

WILL C. DURANT
Philosopher-historian.

"Nature loves inequality and inequality grows most rapidly in a democratic country where men are most free."

Excerpt from "The Patriot"
London, England.

"Britain is an island, underlain by coal, and entirely surrounded by waters filled with fish, and it certainly must take a genius to create a shortage of both."

CHARLES E. WILSON
President, General Electric Company.

"If the great American system is just allowed to progress without being thrown out of kilter by people with foreign philosophies, I think it'll go on to much greater heights."

EMIL SCHRAM
President, New York Stock Exchange.

"We have talked entirely too much about 'security.' There has been too much emphasis on 'riskless savings' and a 'safe future.' We should do more talking about people becoming owners of business."

JOSEPH W. MARTIN, JR.
U. S. Representative from Massachusetts.

"In the broadest view the President has again given notice that he is wholly committed to the eventual socialization of America and the elimination of the traditional American competitive system which made this nation the greatest on earth."

EDITORIAL STATEMENT
The Wall Street Journal.

"The managed economy demands that the citizen even in most trivial affairs must conform to a set of rules. In addition to the specific rules, the government managers have the more powerful controls of taxation. The result is to destroy incentive to venture and to stifle ambition."

L. R. BOULWARE
Vice president, General Electric Company.

"Not only as a private employer but as a contractor for the Atomic Energy Commission, we believe that the labor law should require affidavits of both company and union officials that they do not belong to the Communist party, or to any party which plans, teaches, or advocates the use of violence or force to overthrow the government of the United States."

Are they getting bigger, or smaller?

ONE way to keep an accurate and realistic line on your consumers' kilowatt-hour consumption is to make an analysis of usage.

Instead of having this data prepared in your own offices, however, call in the Recording and Statistical Corporation.

We can analyze your bills in ½ the usual time ... and at approximately ½ the cost of having them done in your own offices by your own competent people.

The Bill Frequency Analyzer—which we developed especially for consumers' usage data—can analyze as many as 200,000 of your bills in one day. Consequently, the cost to you is but a tiny fraction of a cent per item.

May we send you this?

"The One Step Method of Bill Analysis" is an informative booklet that tells you more about this accurate and economical method of compiling consumers' usage data.

This Bill Frequency Analyzer—developed especially for utility usage data—automatically classifies and adds in 300 registers in one step.

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LADY VIOLET BONHAM CARTER
Vice president, Liberal Party Organization.

"Many of the nationalized industries [in Britain] are operating on losses and the taxpayers have to foot the bill. Nationalization has not provided the hoped-for incentive."

HARRY FLOOD BYRD
U. S. Senator from Virginia.

"If the President is successful in plunging this country into a new indefinite era of deficit spending . . . the inevitable result will be impairment of the solvency of the American dollar."

WINSTON CHURCHILL
Former Prime Minister of Great Britain.

"Labor members of Parliament would do well to remember that their government would have been out of office in collapse and chaos years ago if American Capitalism had not been willing to subsidize it."

PAUL S. WILLIS
President, Grocery Manufacturers of America.

"In working to secure the future of American business, we must do a twofold selling job—selling our products to the people on one hand, and selling them the American competitive enterprise system on the other."

DWIGHT D. EISENHOWER
President, Columbia University.

"I am quite certain that the human being could not continue to exist if he had perfect security. Life is certainly worth while only as it calls for struggle for worthy causes, and there is no struggle in perfect security."

EDITORIAL STATEMENT
The Chicago Journal of Commerce.

"Safety is the responsibility of motorist and pedestrian alike. Of the former, it requires courtesy; of the latter, elementary self-preservation. If safety cannot be attained by the exercise of good sense, it must be attained through law."

RIGHT REVEREND MONSIGNOR FULTON J. SHEEN
Educator-writer.

"Socialism is that part of the economic system under which the state imposes a heavy tax on all the God-given teeth in order to supply everyone with state-given teeth, whether they are needed or not—and then rations everything that can be chewed."

NEIL W. CHAMBERLAIN
Professor, Yale University.

"It is only a question of time, perhaps ten, perhaps thirty years until such issues as promotion policies, pension systems, problems of the rate of output are accepted as bargainable issues the same as wages, hours, and working conditions are now accepted."

JOHN W. SNYDER
Secretary of the Treasury.

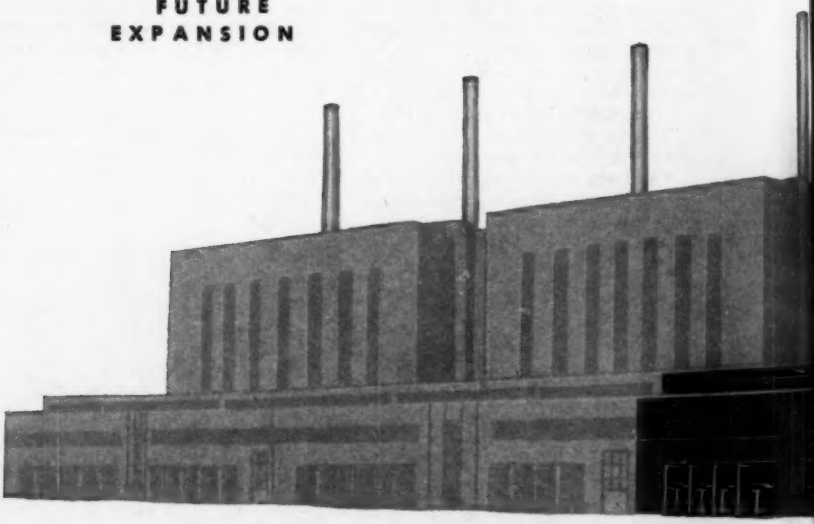
"The general economic welfare of the country should be the guiding principle in determining for any given period whether the Federal budget should be balanced, should show a surplus, or should show a deficit, and in determining the size of any surplus or deficit."

SUNBUR

a tradition of leadership

On the evening of July 4th, 1883, Thomas A. Edison placed into operation the first three-wire central station electric lighting plant in the world at Sunbury, Pa. Power was supplied to the old City Hotel three blocks away which was then on the site now occupied by the Hotel Edison.

FUTURE EXPANSION



The world's largest power plant using pulverized anthracite has been completed recently on a site near Shamokin Dam along the Susquehanna River about two miles below Sunbury, Pa. This 150,000 kw installation, first of a number planned for the site, is part of the Pennsylvania Power & Light Company's network serving 28 counties which cover an area of 9,500 sq miles in central eastern Pennsylvania.

The two 75,000 kw turbine generators are served by four 130-ft high Foster Wheeler Steam Generators, the largest ever built for direct firing of pulverized anthracite.

An extension of 100,000 kw capacity, now under construction, will be completed in 1951 and equipped with Foster Wheeler Steam Generators.

FOSTER WHEELER CORPORATION · 165 BROADWAY

R still lights the way

of
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Four FOSTER WHEELER Units for Sunbury Steam Electric Station of the ENNSYLVANIA POWER & LIGHT COMPANY

pacity	400,000 lb per hr
perheat Control Range	250,000 to 400,000
ssure Superheater Outlet	1350 psig
al steam Temperature	955 F

Anthracite Coal Pulverized in FW Ball Mills in Direct Fired System

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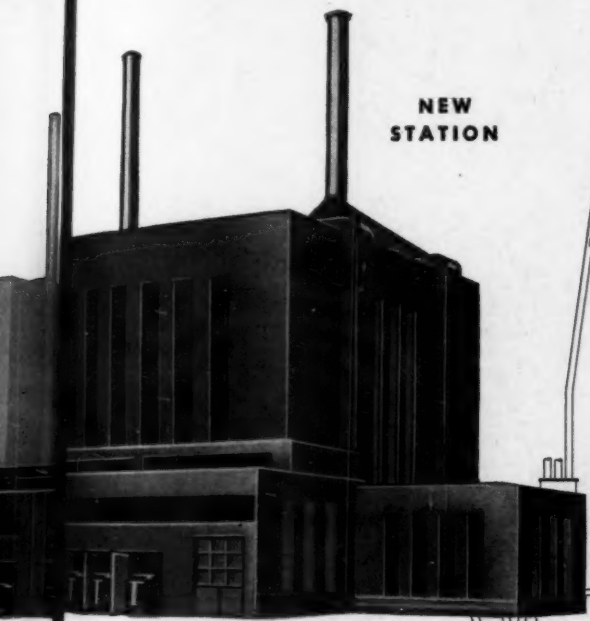
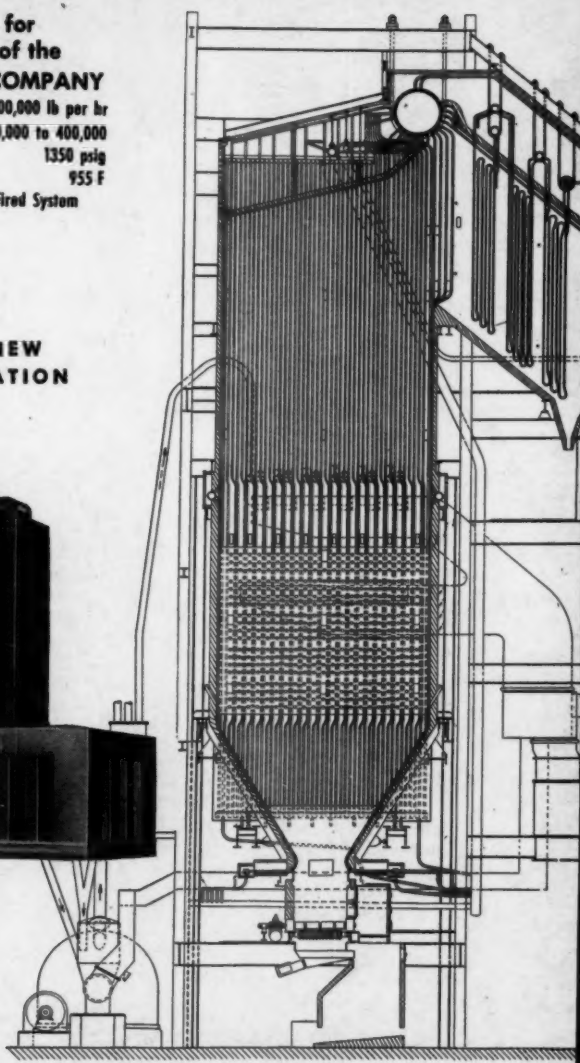
NEW STATION





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ach steam generator is equipped with two oster Wheeler ball mill pulverizers which have combined output of 27 tons of coal per hr.

NEW YORK 6, N. Y.

FOSTER WHEELER

Utilities Almanack

March

2	Th	¶ *American Water Works Association, New England Section, will hold business meeting, Boston, Mass., Mar. 16, 1950.*
3	F	¶ *Western Radio-Television begins third annual conference, Seattle, Wash., 1950.*
4	Sa	¶ *New England Gas Association will hold annual meeting, Boston, Mass., Mar. 23, 24, 1950.*
5	S	¶ *Radio and Television Award Dinner will be held, New York, N. Y., 1950.*
6	M	¶ *National Rural Electric Coöperative Asso. begins convention, Chicago, Ill., 1950.* ¶ *Texas Telephone Association begins annual convention, San Antonio, Tex., 1950.*
7	Tu	¶ *American Gas Association, Residential Gas Section, will hold midwest regional gas sales conference, Chicago, Ill., Mar. 27–29, 1950.*
8	W	¶ *Nebraska Telephone Association will hold annual convention, Omaha, Neb., Mar. 28, 29, 1950.*
9	Th	¶ *American Road Builders Association ends annual meeting, Cincinnati, Ohio, 1950.*
10	F	¶ *American Public Power Association will hold annual convention, Washington, D. C., Mar. 28–30, 1950.*
11	Sa	¶ *American Water Works Association, New York Section, will hold annual meeting, Rochester, N. Y., Mar. 30, 31, 1950.*
12	S	¶ *Southeastern Electric Exchange will hold annual conference, White Sulphur Springs, W. Va., Apr. 12–14, 1950.*
13	M	¶ *National Electrical Manufacturers Association begins meeting, Chicago, Ill., 1950.*
14	Tu	¶ *American Railway Engineering Association begins meeting, Chicago, Ill., 1950.*
15	W	¶ *United States Independent Telephone Association will hold national executives' conference, White Sulphur Springs, W. Va., Apr. 10, 11, 1950.*

The Kilowatt Sentinels

Courtesy, Cleveland Electric Illuminating Company

Public Utilities
FORTNIGHTLY

VOL. XLV, NO. 5 MARCH 2, 1950

Public Power Showdown in South Carolina

Recently fourteen South Carolina rural electric coöperatives succeeded in obtaining a loan from the Rural Electrification Administration to build a vast network of power lines in central and lower South Carolina in collaboration with the state-owned Santee-Cooper Authority. How are the private power companies going to fit into this new picture?

BY W. D. WORKMAN, JR.*

ANOTHER in the series of periodic bouts between public power and privately owned utilities in South Carolina has ended, this time with the decision going to the public power interests. This latest fight was precipitated by the effort of fourteen South Carolina rural electric coöperatives to secure from the Rural Electrification Administration a loan of $7,600,000 with which to build a vast network of power lines in central and lower South Carolina.

The economic and legal objections raised by privately owned utilities have been overridden, the loan has been approved, and all that remained was contract signing by officials of the REA, the Central Electric Power Coöperative, and the South Carolina Public Service (Santee-Cooper) Authority.

Actually, the battle has been between these two chief contenders: the South Carolina Electric & Gas Company and

*For personal note, see "Pages with the Editors."

the South Carolina Public Service Authority. The co-ops have occupied the rôle of pawns or of beneficiaries, according to the point of view of the principals.

Also involved have been the South Carolina Power Company (now owned by the South Carolina Electric & Gas Company) and the Carolina Power & Light Company. Both have been aligned with the Electric & Gas Company in opposition to what they term governmental encroachment on private enterprise.

THE contest just ended is simply a continuation of a long and bitter battle begun in 1934 when the South Carolina Public Service Authority was created to build and operate the huge hydroelectric development known as the Santee-Cooper project. The agency is known familiarly as the Santee-Cooper Authority, and will be so termed in this article to distinguish it from the South Carolina Public Service Commission, the state's regulatory body which supervises privately owned utility operations.

The private utilities sought initially to prevent construction of the Santee-Cooper project as a public power enterprise, fearing that it was designed ultimately to put private companies out of business. In the litigation which followed, however, the authority's general counsel denied any such intention. Here are the words of that spokesman, Richard M. Jefferies, state senator from Colleton county, former governor, and now general manager and general counsel of the authority:

> Our application very clearly disclosed our purpose to sell a large amount of our energy to the power companies; and, in fact, so far as the application is concerned all of it except about 21 per cent which we thought we had a certain market for that would not compete with the utility companies. . . . Very frankly, it is not my attitude to come before this court and try to persecute and prosecute these utility companies, because I have always said . . . that the Santee-Cooper project was not designed for the purpose of putting any of them out of business.

Irrespective of whether such statements affected the situation, the courts dismissed the suit of the three power companies and cleared the way for construction of the Santee-Cooper project. Thus ended the first round in favor of public power.

SUBSEQUENTLY, the Santee-Cooper Authority sought to purchase the South Carolina Electric & Gas Company, then operating under another corporate name in central South Carolina with headquarters at Columbia. That effort brought additional court action and resulted in a decision by the state supreme court that Santee-Cooper was not empowered to buy "an existing utility system in order to produce, distribute, and sell electric power."

That decision in the "Creech Case" gave privately owned utilities a new lease on life and seemed to confine the Santee-Cooper Authority to the mission of operating its own establishment and providing power to areas not already served.

That feeling was strengthened further last year when Santee-Cooper failed in its effort to acquire the South Carolina Power Company, serving lower South Carolina from headquarters in Charleston. Santee-Cooper sought not only to acquire the Charles-

ton utility, but, failing that, fought furiously to prevent its sale to the South Carolina Electric & Gas Company.

Every agency, regulatory and judicial, which viewed that fight decided that no valid reason existed why the Columbia utility could not acquire the Charleston company. The sale of stock finally was completed with the approval of the South Carolina Public Service Commission, the Securities and Exchange Commission, the Federal Power Commission, and both state and Federal courts.

But, even as that fight ended, another was brewing, this one complicated by the participation of numerous South Carolina rural electric coöperatives. Thwarted by the war in their attempt to obtain a $3,750,000 REA loan for construction of transmission lines to the Santee-Cooper project, the coöperatives in 1948 began planning to secure an REA loan twice that size.

THE Santee-Cooper Authority stayed in the background for a time, but in early April of 1948 it was disclosed that Santee-Cooper was planning much, if not all, of the tremendous undertaking. By that time, the coöperatives (ultimately to number fourteen) had organized into the Central Electric Power Coöperative, with Perry M. Brown as its president.

Mr. Brown revealed to this writer that Santee-Cooper officials "came to us with this project at the beginning," adding that the authority was "probably as much or more interested than the coöperatives."

In the months following, there were many conferences between Santee-Cooper, Central Electric Coöperative, and REA officials, generally with an air of secrecy and always with the press barred. All that was known definitely by the general public was that a loan of $7,595,000 was being sought with which to construct some 700 or 800 miles of power lines to transmit power to rural coöperatives.

Officials of the three private companies now serving coöperatives in the counties represented in the Central coöperative protested that they were being frozen out of the negotiations, that the proposed transmission lines would duplicate existing facilities, and that the private companies were prepared to deliver power to the coöperatives at rates equal to those offered by Santee-Cooper.

Late in December of 1948, the Central coöperative held an open meeting in Columbia and laid its case before the press. Spokesmen censured the private utilities for having failed to provide adequate power at reasonable

¶ "ANOTHER *in the series of periodic bouts between public power and privately owned utilities in South Carolina has ended, this time with the decision going to the public power interests. This latest fight was precipitated by the effort of fourteen South Carolina rural electric coöperatives to secure from the Rural Electrification Administration a loan of $7,600,000 with which to build a vast network of power lines in central and lower South Carolina.*"

rates. They denied that there would be much duplication of lines, though comparative maps show many proposed lines paralleling those in existence.

THE officials of the coöperative made it clear that they intended distributing Santee-Cooper power over their proposed transmission net, but denied any intention of competing otherwise with private utilities.

"We do not want a customer the power company has," were the words of Kelly Rusk, engineer for the coöperative.

Mr. Brown said, "If we could get ample power at reasonable rates, there would be no cause for us to exist (as a combination of coöperatives)."

Meanwhile the private companies still were seeking a public hearing before the REA and insisted that they would serve the coöperatives adequately. S. C. McMeekin, president of the South Carolina Electric & Gas Company and leader in the private companies' fight, time and again assured national and local REA officials "of our ability and willingness to adequately supply present and future power requirements of the coöperatives at very low rates."

The power companies made a double-barreled proposal to the coöperatives. They offered either to furnish power at rates comparable with those offered by Santee-Cooper or to transmit Santee-Cooper power over existing private lines to the coöperatives at a nominal service rate.

In either event, Mr. McMeekin calculated, the coöperatives would benefit to the extent of roughly $500,000 a year by foregoing the huge REA loan and utilizing the facilities of private utilities. He based that computation on these factors: that someone, either the Central coöperative or Santee-Cooper, would have to pay $151,910 as 2 per cent interest on the REA loan; $227,865 as 3 per cent depreciation and obsolescence; and $189,887 as operation and maintenance costs (figured at 2.5 per cent).

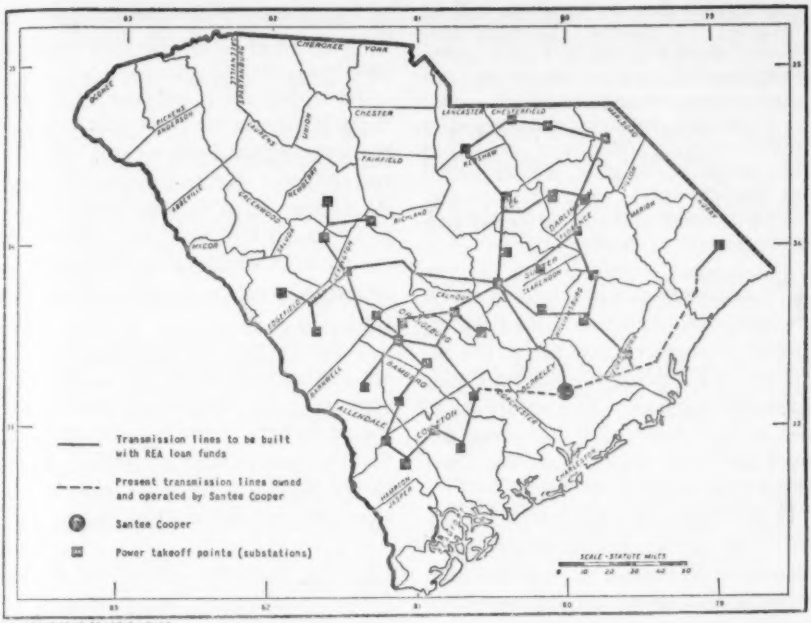
The proposals of the power companies drew no response from either the REA or the coöperatives.

ON January 7, 1948, the REA announced approval of the Central coöperative loan and disclosed a feature which had been suspected but not until then known—that the transmission system to be built would, in reality, be a Santee-Cooper facility rather than a coöperative facility, and eventually would revert outright to the Santee-Cooper.

Through the device of "renting" the coöperative's extensive transmission net, the Santee-Cooper Authority would put up the money needed to retire the $7,595,000 loan over a 35-year period. This is how the plan is described in an REA memorandum announcing approval of the loan:

> The coöperative will lease the entire system to the authority.
>
> The authority will assume the responsibility for the maintenance and operation of the transmission system, and other charges, and payment of an annual rental sufficient to amortize the REA loan over a 35-year period. When the loan has been repaid, the title to the system will pass to the authority.

In a final effort to block the building of transmission lines they feel are aimed at robbing them of customers, the three power companies sought to void the contract between Santee-



U.S. DEPARTMENT OF AGRICULTURE

Cooper and the Central Electric Power Coöperative. Simultaneously, Mr. McMeekin gave this explanation of the companies' action:

> This suit was forced upon us. We had no choice but to bring an action to protect the value of our properties and service to our customers.
>
> We have furnished the rural coöperatives ample power for all their needs and have offered them our established facilities for their future requirements, without any strings or obligations.
>
> It is unfortunate that the people of our state have been denied a public hearing on this vital matter which we so earnestly requested in order that the facts involved might become publicly known. The companies, in trying to prevent the useless duplication of their facilities, which can only lead to political control and operation of all the utilities in South Carolina, offered a proposal that we are anxious for the farmers and other taxpayers to know about. This provided for Santee-Cooper-generated power to be sent over our lines and to be sold directly by Santee-Cooper to the coöperatives at whatever rate Santee-Cooper cared to charge; Santee-Cooper could give its power absolutely free to the coöperatives if it so desired. Under this proposal the coöperatives would be guaranteed the backing of our many plants and lines in addition to the one plant owned by Santee-Cooper. This was a proposal under which the coöperatives would not be burdened with additional debt and would not be under obligations to Santee-Cooper for the next thirty-five years.
>
> The real way to help the farmers and other rural electric customers with this $7,500,000 of Federal money, if it must be spent, would be to use it to improve service to rural customers now being served by co-op lines by increasing the capacity of existing rural lines and extending lines to homes in rural areas that do not now have elec-

tric service. But no such use will be made of this money. The rural customers should realize that not a single home can be connected directly to these duplicating transmission lines.

Therefore, having been denied a public hearing in a matter so vital to the people of the state, we are forced to take the only course left to protect our properties and service to our customers—a legal action.

THE salient point in this legal action was whether or not the Santee-Cooper Authority came under the jurisdiction of the South Carolina Public Service Commission. The question had been raised from time to time, but never had been adjudicated. The issue boiled down to this:

If Santee-Cooper fell within the jurisdiction of the public service commission, as do privately owned utilities, then the power companies were due protection against what they termed "unfair competition" from a government-financed power project. If Santee-Cooper was excluded from the commission's regulations, then it needed no certificate of "public convenience and necessity" before proceeding with the establishment and operation of transmission lines.

The case reached the South Carolina Supreme Court during the summer. The court decided that Santee-Cooper held a specific statutory status which effectively exempted it from the jurisdiction of the public service commission. With that established, other points of the suit fell by the wayside and the power companies had no legal recourse left.

As matters stand now, the way is clear for Santee-Cooper and the Central Electric Power Coöperative to proceed with their plans for establishment of a vast transmission network throughout 27 of South Carolina's 46 counties.

Their ostensible purpose is to take cheap power to rural electric coöperative members and other farm folk who are not now served adequately or at all. If this were the only purpose for which the REA loan was to be used, the power companies would not be so concerned over the future as they now are.

What the power companies fear, and not without justification, is that this vast federally financed power net will sooner or later be the medium by which the politicians who champion public power in South Carolina will seek to wreck the private companies.

AT the moment, officials of the coöperative say "we do not want a customer the power company has," but these companies have a vivid recollection of past promises which somehow lost reliability as circumstances altered. They find it difficult to reconcile Senator Jefferies' early statement that "the Santee-Cooper project was not designed for the purpose of putting any (power companies) out of business" with his subsequent statement (in December of 1948) to the effect that Santee-Cooper either would buy out the South Carolina Power Company or give it "competition to the nth degree."

In his most recent criticism of the power companies, delivered October 6th in Charleston, Senator Jefferies termed private utilities "fascist" because they are given "monopolies." By contrast, he said the Santee-Cooper believes in private enterprise, "the fundamental principle of which is competition. . . . Public power service is not a

socialistic enterprise. Public power in the Santee-Cooper is no more socialistic than the public school system. Private power, in its monopolistic form, is much worse."

In the face of that attitude, it would seem to be exceedingly optimistic to expect any understanding between private and public power interests in South Carolina.

The power companies, though set back somewhat by this latest court decision, are still very much in the picture. They believe public opinion in South Carolina will support them against any unfair inroads by public power interests. Their faith in the future is strong enough, for example, to warrant a recent announcement by Mr. McMeekin that the South Carolina Electric & Gas Company and the South Carolina Power Company jointly would spend some $38,000,000 in new construction work during the next five years.

With regard to the rural electric coöperatives, the South Carolina Electric & Gas Company has made still another offer to improve contract relations and obviate any necessity for entering into the Santee-Cooper agreement.

THIS last proposal, dated September 17, 1949, renewed the offer to provide power or to transmit Santee-Cooper power, whichever the coöperatives preferred. South Carolina Electric & Gas Company offered to furnish power at 5.5 mills per kilowatt hour on a 15-year contract.

Or, if the coöperatives chose to deal with Santee-Cooper for their power supply, the company offered to transmit such power from the Santee-Cooper to the coöperatives. A facility charge would be made (in kilowatt hours rather than cash) on the basis that Santee-Cooper deliver into the company's transmission system 10 per cent more power than that required by the coöperatives, including line loss.

HERE is what the Electric & Gas Company said in making that offer to all presidents, managers, and directors of the coöperatives now served by it:

> We are confident such a plan could be worked out with your coöperative and Santee-Cooper on a mutually beneficial basis. The companies have ample power, ample transmission facilities, and are willing to use both their generating and transmission facilities to assure your coöperative an adequate and dependable power supply.
>
> You can well appreciate that under such a plan your coöperatives' power supply would be backed not only by the Santee-Cooper project but by all of the power plants in the state and by all of the large transmission interconnections with out-of-state companies.
>
> You may wonder why the company is willing to make such a proposal: Our answer is that it is a determined effort on our part to keep our company, which is owned by 38,000 stockholders in South Carolina and other states, from being destroyed by a system of government-owned, duplicating transmission lines and substations. We tell you quite frankly that if no power other than that furnished the coöperatives were to be transmitted over the proposed duplicating transmission system, we then would have no objection whatever to the construction of the proposed duplicating transmission system. However, since we realize that all of the power requirements of all of the coöperatives will not in the immediate future be sufficient to utilize 10 per cent of the capacity of the proposed transmission system, we know that the lines will, therefore, be used to serve

power needs other than those of the coöperatives. This could only mean serving business that we are now serving or that we would otherwise serve.

You may ask why we object to this type of competition: Our answer is that we cannot compete with our government. If the proposed transmission system were to be operated under the same rules under which we operate, we would not be concerned over the competition.

We are firmly convinced, and we believe you are, that if the companies are not to be permitted to exist as privately owned, tax-paying American businesses, they should in fairness and in the best interest of the people of South Carolina be put out of business by being purchased by the government at a fair price, rather than by our government using the money of the taxpayers to uselessly duplicate facilities as a means of forcing the companies out of business.

Your coöperative's acceptance of either of these proposals is not contingent upon or dependent upon the acceptance of either of them by any other coöperative, and we urge you to seriously consider our proposals before binding your coöperative in additional debt and to a 30- or 35-year contract with all of its implications.

THE coöperatives have shown no interest in that proposal. The Electric & Gas Company's letter went out in mid-September, but by late October not one of the coöperatives had acknowledged receipt of it.

At the time this is being written, here is the only reaction available, and this comes from Perry Brown, president of the over-all Central coöperative:

> Central Power Coöperative has never received offer from McMeekin. Understand coöperatives served by South Carolina Electric & Gas Company have received some proposal. Understand from co-op representatives served by McMeekin's company not interested. My personal belief is Central Electric Power Coöperative not interested were similar proposal offered. Consider offer merely an attempt to delay progress of Central and not made in good faith.

For the time being, there the matter rests. The fourteen coöperatives and the Santee-Cooper Authority seem determined to proceed with the construction of an elaborate network of lines which the private companies say are not needed.

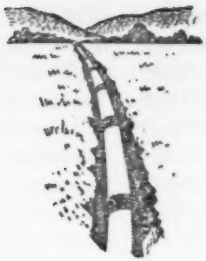
The power companies continue their efforts to improve service in all areas, urban and rural, hopeful that public sentiment, and perhaps legislative action, will forestall further invasion of private enterprise by government-financed projects.

"UNLESS the difference between promise and performance is clearly delineated and understood by the lay public, the corruption of a superior and more productive free economic society will continue.

"Thus, British workers are finding out . . . that having their own cronies in the seats of the mighty in government is no assurance that they will achieve the material progress they seek.

"Even the visionaries can't change simple arithmetic or physics and chemistry, no matter how glibly they make irredeemable promises to the unsophisticated."

—MERRYLE S. RUKEYSER,
Columnist.



Natural Gas—Everybody's Darling

Almost every day seems to bring us news of more and bigger plans for natural gas pipelines seeking to serve the rich eastern coastal market. Specifically, in the New York city metropolitan area the steady march of natural gas has challenged the attention of the gas industry. Here is an account of this peaceful invasion of the nation's largest urban center and the high financial and regulatory stakes involved.

By JOHN P. CALLAHAN*

A PROFESSIONAL observer of the American economic scene, an associate editor of a national monthly magazine, remarked to the writer recently that "if the gas industry, every level of it from the producer to the pipelines and the operating utilities, doesn't watch its step, it may find itself faced with onerous legislation not unlike the Holding Company Act that hit the electric utilities." This sounded almost incongruous coming from a conservative. Just a moment earlier, he had leaned heavily on the rhetorical phrase when he described as "refreshing," the "nostalgic revival of the pioneer spirit inherent in the phenomenal growth of the gas industry."

His note of alarm, he explained, came from the very growth that he praised. Of course, gas utility affiliates of the old holding company setup already have gone through the SEC "integration" mill. But this idea was about gas alone in its new and expanding industrial form.

What are the "phenomenal" aspects of this rapidly expanding $6 billion industry? Even a cursory view of them reveals that an exhaustive picture would tend to be a confusing one. For example, there is (1) the regulatory part; the Federal Power Commission phase alone is a chapter replete with evidence of the multitudinous problems attending interstate regulation of the industry. Then there is (2) the chapter on the pipe-line race, with entrants

*For personal note, see "Pages with the Editors."

of varying representation, ranging from production to retailing of gas. Also, there are (3) the local utilities, each bidding anxiously for a supply of natural gas needed not only to avert a repetition of the fuel-short winters that beset them in recent years, but to convert the gas end of the utility business from a loss to a profit.

IT is with this third part that we will mainly concern ourselves in this article. And here, again, we can get a clearer perspective if we narrow our focus on a major metropolitan area—New York.

In this area, with its residential and industrial concentrations, there are close to 3,000,000 customers served by about ten utilities, Consolidated Edison Company of New York, Inc., the largest with approximately 1,350,000 gas customers. While we are on statistics, here is the situation for Consolidated Edison and other utilities in the area which are preparing for the availability of natural gas by the end of this year. The number in parentheses represents customers.

Consolidated Edison (1,350,000) will spend about $9,307,000 for 23 miles of pipeline connecting with the 132nd street, Manhattan, end of the 1,840-mile line of the Transcontinental Gas Pipe Line Corporation. When the line is completed in the fall of this year, these companies also will take natural gas from it: Brooklyn Union Gas Company (830,000), which will spend about $2,916,000 for 12 miles of pipe connection; Kings County Lighting Company (115,500), $500,000 for 2.9 miles of pipe. Other metropolitan area utilities included in this program are the Brooklyn Borough Gas Company (94,200) and the Long Island Lighting Company (168,500).

The combined facilities of the above-mentioned utilities will be used jointly for the benefit of them all, and each company will construct, maintain, operate, and assume the cost of the facilities in its respective area. The annual carrying charges and the maintenance and operating expenses will be apportioned among the companies in relation to the contract demands and in accordance with the use actually made of the facilities.

The daily volumes of gas which the companies will receive from Transcontinental are: Consolidated Edison, 100,000,000 cubic feet; Brooklyn Union, 60,000,000; Kings County, 7,500,000; Long Island Lighting, 20,000,000; and Brooklyn Borough, 7,000,000 cubic feet.

ALSO, there are in the metropolitan area the Public Service Electric & Gas Company in New Jersey, and the New York & Richmond Gas Company, on Staten Island. In addition, there are three others in New Jersey and, along with Public Service and New York & Richmond, they are on the line of the Texas Eastern Transmission Corporation, owner of the Big and Little Inch lines that have been transformed from wartime oil carriers between the Southwest and the Philadelphia-New Jersey area, to gas lines. These three are the Jersey Central Power & Light Company, the City Gas Company, and the County Gas Company. Of the three, City Gas was the first utility ever to receive natural gas in New Jersey when Texas Eastern began serving the area in the spring of 1949.

In every case, these ten utilities almost begged for natural gas, a situation that sets right well with the two major pipelines that share the rich market. Jersey Central expects to be on the Texas Eastern line in the spring of this year. New York & Richmond also is a Texas Eastern customer, a relationship that is a story in itself, and one to which we might devote some space.

This relationship also leads us to an important issue—one that some of the other utilities have tried with questionable assiduity to avoid during discussion of natural gas.

First off, New York & Richmond, despite its minor league standing in the over-all picture with "only" 39,000 customers, had the distinction among utilities of being the first in the metropolitan area to receive natural gas on August 22, 1949, thus ending ninety-one years of manufactured gas operation. Betimes, it sustained losses from the operation, despite rate boosts.

THIS utility made gas from bituminous coal and coke, and enriched it by mixing it with gas made from oil. Rising coal costs led to a series of rate increase requests before the public service commission and, notwithstanding three hikes between the end of the war and January, 1949, amounting by the way to 23 per cent in the period, operations were still marred by financial stress.

During these years, in 1947, New York & Richmond moved to become a customer of Transcontinental following announcement of the latter's plan to bring natural gas to the area by the fall of 1950. The Staten Island utility reasoned that natural gas would reduce its gas production cost from 60 to 45 per cent an MCF and bring about operating savings of $140,000 a year, based on 1947 oil prices. But fiscal problems continued to mount and, in 1948, when Texas Eastern applied to the Federal Power Commission for permission to increase the capacity of its line eventually to 740,000,000 cubic feet a day, New York & Richmond moved successfully to get 4,000,000 cubic feet of the gas daily. Immediately on approval of its request the company dropped its plans to get the gas from Transcontinental a year or more later, and started anew.

In 1948, New York & Richmond lost $45,000. By August, 1950, it expects to show a net profit of $200,000, despite a $230,000 annual rate cut that means an 11 per cent reduction in the gas bills of its 39,000 customers.

No divining rod is needed to measure the depth, or significance, of the case that evolved before the public service commission in New York on November 1, 1949—just eight weeks after Mayor William O'Dwyer signaled the advent of gas in his city at ceremonies marking the occasion on Staten Island.

❦

¶ "THE *Brooklyn Union Gas Company's rise to the largest utility engaged exclusively in the production and distribution of manufactured gas is a long stride from the dim era of pre-Civil War days when Brooklyn was an incorporated city of about 100,000 persons—just about one-tenth of the number of customers served now by the company.*"

CHAIRMAN Benjamin F. Feinberg, of the PSC, announced the $230,000,000-a-year rate reduction on that first Tuesday in November, and hailed it as a turning point that foreshadowed lower cost of gas service to all consumers when natural gas becomes available to all companies serving the 2,600,000 gas customers in the metropolitan area. This is what Chairman Feinberg said that day: "Because of the drastic increase in the cost of materials entering into the production of manufactured gas in recent years, gas rates have been increased substantially."

He went on to recount how the utilities regulated by the New York commission incurred heavy operating losses and how the PSC allows increases in gas rates "as an emergency measure to prevent deterioration of service and possible bankruptcy of some of the companies.

"The higher rates have caused hardship to consumers, especially to those using gas for house-heating purposes. The commission was fully aware of this fact, but because of the heavy increases in operating costs, in some cases more than 100 per cent, higher rates were unavoidable if the companies were to continue to render adequate service."

And here is more than an indication of what may be expected after natural gas is available in the rest of the area. The PSC chairman said: "The New York & Richmond Gas Company also received rate increases during recent years, *but now with the changeover to natural gas its customers will feel the effect of the lower cost of this fuel.*"

Mr. Feinberg then forecast the future: "Other consumers in New York city, Westchester, and Long Island are *bound to benefit* when natural gas becomes available to all companies in the metropolitan area, perhaps by the end of next [1950] year." (Italics ours.)

WHILE the above-quoted remarks by the chairman of the nation's most influential state regulatory agency are more than a tacit comment on what may be expected in the way of rate adjustments after natural gas comes to the other utilities under its jurisdiction, nevertheless there are several factors that could alter the situation. For example, the Consolidated Edison Company's picture might change substantially after acquisition by it of the Long Island Lighting Company. Long Island Lighting has 168,500 gas customers and Consolidated Edison has almost a million and a half; will there be a conversion to straight natural gas? It appears not, hence an almost contrasting situation to that of New York & Richmond.

As a matter of fact, an official of Consolidated Edison, after telling the writer recently that "it is still impossible to estimate the effect of the introduction of natural gas on our rate schedule," added: "The gas will be used in place of oil in the manufactured gas process, and customers will notice no difference in the gas supplied them." He also asserted that "the savings effect will depend on the comparative price of natural gas and the types of oil used when the changeover is made."

Brooklyn Union, which is the largest utility in the country engaged exclusively in the production and distribution of manufactured gas, will go into a mixed gas operation when it receives its first natural gas from the Trans-

Second Youth for the Gas Industry

"THE natural gas industry is old in comparison with most industries, but young in its thinking. It possesses the freshness and vigor and optimism characteristic of youth—three attributes that augur well for its future."

continental line late in 1950. Here, also, inquiry on the rate question meets with disappointing results. However, at the annual meeting on May 5, 1949, Clifford E. Paige, president, said the utility expects annual savings in operations of about $4,000,000, before taxes. That amount represents a little over $1,000,000 more than the estimated cost of pipe-line connections to Transcontinental's 30-inch tubular carrier.

IT might be mentioned, in behalf of Brooklyn Union, that along with the other big utilities in the area it has sound reason, at present, for being reluctant to go all-out for straight natural gas. One reason is the fear of an interruption of service on Transcontinental's 1,840-mile line. The stoppage could take any of several forms, including a break anywhere along the route that scales rivers, crosses mountains and 160 railroad tracks between Mercedes, Texas, and 132nd street in uptown New York. Then, too, the conversion cost is steep. Brooklyn Union has said it would run about $12,500,000 for its 830,000 customers, or about $15 a meter. This compares with $800,000 capital cost for New York & Richmond's conversion operation on about 300,000 burners on appliances of 39,000 customers.

Turning now to the Garden state, Public Service Electric & Gas, which was the second New Jersey utility to receive natural gas from the Southwest when Texas Eastern began sending up 4,500,000 cubic feet a day last August, expects substantial increases later this year from Transcontinental. Here, also, the natural gas will be used for mixing.

Some industrial appliances will be affected by the burning characteristics of the gas, a slight change resulting from the higher methane contents in the mixed fuel.

A spokesman for this giant utility said that except for a slight odor change, most customers will be unaware

of any difference in the fuel, based on its experience with 100,000 customers who now receive mixed gas.

The plant equipment cost to utilize natural gas as a raw material at PSE&G was placed at $3,000,000. With the reluctance one finds in the other utilities, the company sought to avoid discussing a rate increase but did give just a hint that there may be one. Asked what the savings would be in dollars and cents for the customer, and by how much the rates would be affected by natural gas, the company made this nonstop reply: "With the advent of natural gas it is anticipated that the oil adjustment charge will be reduced, which will result in a substantial savings as compared to bills rendered in 1948 and 1949 which included an oil adjustment charge where customers used in excess of 2,000 cubic feet per month."

On the subject of the internal benefits accruing from the use of natural gas, Con Ed (the abbreviated name form used now in the utility's advertisements on its "Men Working" signs) said that not the least among them was the availability of the gas at the stations without regard to harbor conditions which might stop incoming oil tankers. Also, it was pointed out, some of the gas may be burned in boilers at the Hell Gate station to generate electricity—another instance of the flexibility of natural gas.

Ever since February, 1825, coal has been the backbone in the gas manufacturing process in New York city, but numerous enrichment methods were used in the retorts. At the outset, New York Gas Light Company (a Con Ed predecessor) employed whale oil to increase the BTU (British thermal unit) content of its retort gas. This made the company partially dependent on itinerant whaling ships, and it was with great relief in March, 1829, that Timothy Dewey, company manager, announced that a changeover had been effected so that rosin could be used as an enriching agent. At other times in the development of New York's gas service, cannel coal, naptha, and kerosene have been used to "pep up" the retort gas, according to a Con Ed spokesman.

The reminiscent note of whalers and of kerosene recalls Brooklyn Union's early days. Some of the problems which technology and time have obviated and remedied were recalled at the week-long celebration in the City of Churches recently on the occasion of the company's centennial.

The Brooklyn Union Gas Company's rise to the largest utility engaged exclusively in the production and distribution of manufactured gas is a long stride from the dim era of pre-Civil War days when Brooklyn was an incorporated city of about 100,000 persons—just about one-tenth of the number of customers served now by the company.

With some exceptions, the introduction and expansion of gas in Brooklyn a century ago parallel that of most other centers, even though such cities as Baltimore, Boston, and New York had street lighting before 1849. According to a newspaper account of the time: "The Brooklyn Gas Company . . . completed preparations for the introduction of this desirable article of consumption, and a few nights gave positive evidence of its

existence in our midst by the illumination of the principal streets of the city, which at the hour of 8 o'clock were almost as day."

The predecessor of the company that now serves thirty-one of the forty-one wards in Brooklyn, and about half of Queens, confined its operations to street lighting and to serving a few affluent residential customers who could afford to light their homes with gas. A skeptical public was slow to accept gas, about as slow as the industry itself in accepting the public as its principal market, and it was not until after the Civil War that homes, factories, and shops were lighted with gas.

There followed a period of vigorous competition among mushrooming gas companies until the battle of the boundaries was settled by consolidation of eleven rivals in 1895 into the Brooklyn Union Gas Company. Later, six more companies became subsidiaries, and by 1927 they were merged with the parent company.

ONLY one of the works that operated independently before the consolidations of 1895 still remains—the Citizens Gas Works at Hoyt and Fifth streets. Most of the gas supply now is manufactured at the new Greenpoint Works where stands the world's largest gas holder with a capacity of 17,000,000 cubic feet of gas. Today, Brooklyn Union's annual gas sales exceed 35 billion cubic feet to serve more than 3,500,000 persons—not all of whom are customers—resident in Brooklyn and Queens.

After the hypothetical or theoretical question: "How many [persons in the company's service area] will there be one hundred years from today?" the utility observed that part of the answer "depends on Brooklyn and Queens and how they grow." Then, according to the release prepared for the 100th anniversary celebration, the utility assured posterity that "whatever the number, Brooklyn will be around to serve them."

From the foregoing we may have gleaned an idea of the magnitude of the natural gas operation in the nation's most populous, busiest, and certainly one of the most highly lucrative gas sales areas. The natural gas industry is old in comparison with most industries, but young in its thinking. It possesses the freshness and vigor and optimism characteristic of youth—three attributes that augur well for its future.

While reserves are somewhat outside the scope of this piece, it does seem relevant to mention that the proved recoverable reserves of natural gas at December 31, 1948, were almost triple the 63.9 trillion cubic feet at December 31, 1935. This, despite the fact that 14-year-period withdrawals of the fuel exceeded 85 per cent of the total proved recoverable reserves at December 31, 1935; and during 1948, withdrawals were two-and-a-half times the figure for 1935.

OUR friend, the associate editor, has tempered his alarm a bit. His reason for not sounding quite as ominous, he told us the other day, is based largely on some thinking he has done along regulatory lines. Briefly, he has recast his opinion after counting up the number of Federal, state, and local authorities that exercise "jurisdictional interest," as he put it, over all levels of the industry.

The High Price of Public Planning

Regional improvement planning has become one of our national pastimes. It seems to be based on the notion that we are our brother's keeper. But what started out to be a job-building function in the depression days has turned into a self-perpetuating political Juggernaut. It may well be that we were put in this world to help others. But if so, what were the others put here for?

By JONATHAN BROOKS*

Probably the most amazing feature of the political spectacle that unfolds before our gullible eyes, these days, is the balancing act whereby our top-level planners carry the brother's keeper's program on one shoulder and the plan to keep employees and employers at odds, upon the other shoulder!

A facetious reply might be that this routine is really an easy trick because both shoulders are LEFT shoulders. I know that. But *analyzing* the feat is beyond me. This, despite the fact that I am paying to see it done. Let us direct our attention to one of the two phases of this double balancing act—the brother's keeper's program. This, I have been studying in the light of some statistics fresh from the top-level planners' own drawers. Though pertinent, these figures seem to warrant much more attention than anybody seems to be giving them.

Follow closely, and I shall endeavor to prove that, in the so-called regional improvement plan, both as brothers and as keepers we are just a lot of babes in the woods. And if we wish really to improve ourselves solidly and permanently, we might well forget the whole thing. Let us rationalize these two statements—with no tricks or props—just some figures from the Treasury Department, Bureau of Census, and Department of Agriculture.

(Parenthetically, I was intrigued a few years ago, while taking part in my state's flood-control work, when I heard a rather well-known engineer, retired now, say "The TVA is the most monumental hoax ever perpetrated upon the American people!" He may have meant, merely, that filling valleys

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with water is no way to control floods; I don't know. I'd never seen him before, and have not, since. But I worried about his charge until not long ago I found some official figures which the reader can check even from such a modest source as *The World Almanac.*)

FIRST, let us start with the elementary proposition that regional improvement planning is supposed to result in sound plans for actual improvement of a region. It has become a favorite pastime with us here in the United States in recent years. True, it is based upon the thesis that we are our brother's keeper — not to mention our half-brothers, stepcousins once removed, and others who need only be poor relation — in fact, *especially* POOR relations.

It is a broad jump from the depression-born Public Works Administration (PWA) which created much-needed employment, by fostering *local* projects in construction of permanent works. Now, the projects are *regional.* It is a high jump, too. Because the PWA used Federal funds to *grant* first 30 per cent and then 45 per cent of the cost of the projects. PWA then loaned the balance to local units (cities, states, counties, districts, etc.) which put up some money themselves. Today, in an era when there is only an insignificant amount of unemployment we *grant the whole 100 per cent, regionally!* No matter which way we look at it this is a record jump. Bear in mind the employment excuse. It has just about vanished. In its place we have no tangibly pressing justification — but mainly a vague desire to have the Federal government do good work in the region affected. And some are so cynical as to suggest strong political overtones.

A dozen years ago we were pretty well fixed. We could, and did, pay Federal income taxes amounting to $8.52 *per capita,* nationally. (Some of us were not so prosperous. In my state of Indiana such tax collections figured only $5.23 *per capita.*) Surely, we could afford to help backward areas! Which ones? Well, Tennessee and neighboring folk were able to pay only $2.66 *per capita.* They're nice people, deserve help, and we like them.

SO we go through with a substantial program, giving the Tennessee region one billion dollars, in round sum. We undertake flood control for its principal river valleys, provide river transportation for its products, set up "cheap" power to enable its people to do more and live better—in short we created TVA. And while we're at it, we tell the world what a swell job we're doing. Our official party line seems to be to snap and snarl and even question the integrity of doubting Thomases who now and then demur ever so mildly.

The job is fairly well along toward completion. The money is mostly spent, except for such trifling items as millions for soil conservation on the hillsides that washed into permanent floods, or lakes. There are still the nitrate schemes, and coal and steam-generating plants to reinforce the "infirm" hydro. The job is almost done, our billion gone, and what have we accomplished?

Helped property values?—Average assessed property value in the United States for 1948 was $1,043; in my

The Planners' Balancing Act

"PROBABLY the most amazing feature of the political spectacle that unfolds before our gullible eyes, these days, is the balancing act whereby our top-level planners carry the brother's keeper's program on one shoulder and the plan to keep employees and employers at odds, upon the other shoulder!"

state (one of the brother states, NOT classed a keeper state) it was $684.56; in Tennessee, $539.50!

Boosted earnings?—Per capita individual income in the United States in 1948 (fiscal year) was $1,410; in my state, $1,403; in Tennessee, $955!

Increased farm production?—Farm income (less Federal payments) in the United States in 1947 was $206.50 *per capita;* in my state, $275.60; in Tennessee, $153.10! (That low figure is no reflection upon the farmers of Tennessee—they can't farm rich river bottoms that are forever under water!)

Raised industrial production? — I can't find a national figure at the moment; but in my state, in 1947, the "value added by manufacture" (an odd statistic set up by the Bureau of Census) was $760 *per capita;* for Oregon, it was $410; for Kentucky, $261; and for Tennessee, $300! Something seems to be wrong, here, for we provided river transportation to handle the area's production cheaply (*i.e.,* with Federal underwriting) although it would seem the poor old railroads could struggle along under the weight of that production—and darn glad to get the business. Moreover, we rerigged freight tariffs to the advantage of the area, very decisively! Maybe industrial production will come up—it should, if electric power is as important as the planners think. But there are no persuasive or authoritative figures to bear this out. Never have been.

INCREASED *power supply?*—We certainly did! The United States has a power supply of .52 horsepower *per capita,* as of last year. In my state, we have .57 horsepower *per capita,* and with it we turned out more farm and industrial products than Tennessee did with its .63 horsepower *per capita.* And, we earned more, and were able to carry a heavier share of the tax load than Tennessee folk.

Improved taxability?—That is one thing we surely did for the land (and water) of the walking horse! Where a dozen years ago the area contributed $2.66 *per capita* to the Federal collection box, it kicked in $111 *per capita* in 1948. And that is an increase of 4,073 per cent! Whooie—but wait—in my state we anted up from $5.23 to $258, and THAT is a 4,833 per cent hike! (National figure, $285.) AND we did it without benefit of a billion-dollar shot in the arm. We've had NO tax-exempt, unaccounted-for largess!

Reviewing those fundamental figures, I ask you, what kind of keepers are we for our brothers? Are we doing them any real good? How do we know we should be keepers, instead of brothers, ourselves? How about you, in YOUR state?

That should be sufficient examination of the Tennessee area example of regional improvement, its results, costs, and implications. But it is fair to remember that we have not quite finished the job. Lately we have sneaked a steam-and-coal generating station, to reinforce infirm hydro, into a general appropriation bill which had to be passed. And we are now talking openly, more boldly, about another one to cost more millions, with national defense as the excuse. We have sent the REA in with some of its funds to make the Tennessee rural electrification program look presentable, which it certainly does not, now, at the 50 per cent stage. (Not with Indiana, Oregon, and Washington, to mention only a few, at the saturation point on farm service.)

MAYBE we are in the position of the man who mistakenly thinks continued doling of dollars will solve all the problems of his indigent friends. Trouble is, what else to do? A man hates to tell his friend—"Beat it, get to work!" Moreover, we have not set the standard to which we would raise the Tennessee area. If we wished only to improve it, let's say we did, with our billion dollars. But if we wished to bring it up to average in production, property, or taxability—well, we're not halfway there yet, after all these years! And our billion is gone, never to return.

What frightens me is the prospect that we may decide to give the area ANOTHER billion, AND the TVA folks might be just about willing enough to let us do it!

This brings me to another remarkable angle in our brother's keeper's program. Having succeeded much more definitely with TVA publicity than with TVA performance, we are heavily engaged in a regional improvement program for the Pacific Northwest. We seem to be past the half-billion mark in a billion-dollar commitment which may be binding upon all of us, whether or not we like it, can afford it, or relish the prospect of keeping more brothers! Let me return to my figures.

Nineteen hundred and forty-eight individual income in the state of Washington was $1,453 *per capita;* and in Oregon, $1,302. (Compare with national, $1,410; Tennessee, $955; my state, $1,403; and in yours? Well look it up? It's right at hand—in your humble little *World Almanac!*)

Property value in Washington in 1948 was $641.05 *per capita,* and in Oregon, $768.76. (Compare with Tennessee, $539.50; and my state, $684.56.)

Both Washington and Oregon were above the national average for farm

income in 1947, at $248.40 and $225.90, respectively. As against Tennessee's $153.10. Moreover, by the Census Bureau's peculiar measurement, Washington's industrial production was $337 *per capita,* and Oregon's $410, in 1947—to Tennessee's $300. (Considering the distance from mass markets and some raw materials, industry may be said to thrive in Oregon and Washington; already, without waiting for our full billion to get to work.)

AND, *in 1948, income taxes* collected in the two northwest states reflected very creditably on their busyness—at $216.40 *per capita* for Washington, and $193.30 for Oregon. Against Tennessee's $111. In the face of these statistics, we would seem to be insulting the people of the Northwest by classing them as poor relations needful of our charity. They appear to be producers, workers—and

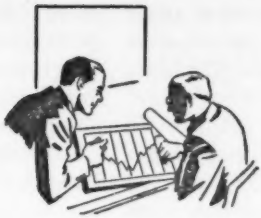
They have much more than the national average share of electric power. As of last year, Oregon has .78 horsepower *per capita,* 50 per cent over the national average; and Washington has 1.12 horsepower *per capita,* DOUBLE the national average! Of course, much of it is infirm, and aluminum plants have to shut down when the hydro is bothered by too much or too little water. But a few days off, now and then, apparently have not hampered a pretty good production record to date. (Besides, we may hurry out there and present them with some tax-exempt coal and steam generating stations.)

The 1950 Public Works Appropriation Bill, for river work, carried $664,178,190 in total, for an expenditure of $5.04 *per capita* nationally. Of that amount, Oregon and Washington receive $64,475,000, slightly over 10 per cent: or $16.26 *per capita.* Thus, they spend $5.04 and receive $16.26, the rest of us, who may need some river work ourselves, putting up the difference. (In my state, we spend the $5.04, and receive $1.96!)

So, without having yet provided for firming the hydro we're going to develop, we are steadily proceeding with our second half-billion Federal commitment for the Northwest. We are doing this, without *first* having looked to see, by such figures as those I've cited, whether the hardy folk of the region are really in dire need.

IN the light of TVA results to date, Oregon and Washington should run and hide when they see us coming down the western slopes with more regional planning from the District of Columbia, to fasten upon them. Or, perhaps, stand up and fight us off! And in the light of income tax collections—that 4,833 per cent increase, as in my state—we'd *all* better run, and hide from the revenue man—as well as from the planners who cause him to act so tough. Even if the planners and the "plannees" are really in harmony, however, the ultimate bill payers ought to be entitled to a voice, and a vote.

I'm going to see my Congressman, even if a plan is a plan is a plan. (And you?) To urge him to insist that in the brother's keeper's program, now and henceforth, we should make sure—(A) that our brothers actually need keeping; (B) that we honestly know how to keep them; and (C) that we can really afford it!



Municipal Ownership *versus* Federal Power

The complaint of private power company officials about the inroads of Federal agencies and their fears of Federal power has, perhaps, distracted attention from the possibility that the municipal form of public ownership may also lie in the road of Federal invasion.

By ALFRED M. COOPER*

Before 1935, local electric utility service in the United States, as a rule, was conducted by either privately owned power companies or by city-owned power plants and "bureaus." Whenever a utility corporation was generally operated in the public interest, a community continued to be served by that corporation. When, occasionally, the management of a power company found its allegiance to favor its stockholders in conflict with the claimed rights of its consumers and employees, the citizens of the community concerned would go to the polls to decide the question. They either voted the private utility out of existence or gave it a vote of approval. More often, in the years prior to 1930, the trend went the other way. Local citizens decided to sell out their plant to a private company purchaser because they felt they would get a better deal.

Sometimes the question of municipal ownership of electric utilities became mixed up with a lot of other local political issues. Sometimes, office seekers found it practicable to capitalize on the electorate's prejudice against some "power trust" or "utility empire" in order to float into office on the crest of such agitation.

Thus it was that, for more than fifty years, there existed a democratic preference for municipal ownership in certain American municipalities. This functioned as a sort of balance wheel, to offset any trend toward autocratic monopoly of electric power generation and distribution. Or, to change the figure slightly, it was an escape valve protecting the public from any arbitrary abuses either by private companies or politically managed plants. The local

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electorate always saw there was an alternative, if necessary, to either public or private ownership at the municipal level.

WITHIN little more than two decades, however, a third factor has been inserted into the ownership equation. It is Federal power. Federal power has nothing to do with local political problems nor the attitude of the citizens of a municipality toward any power company. The threat of municipal ownership had previously remained essentially a local issue—a restraint to prevent excesses by some particular power company. Federal power, on the other hand, does *not* concern itself with either the virtues or the shortcomings of any power company management. Its plain intent in many areas is not to correct or regulate, but to destroy and replace.

And it is only recently that some managers of city-owned power plants have come to understand that Federal power and municipal power may have increasing difficulty existing side by side, within a socialistic economy. In other words, it becomes increasingly evident that Federal power, if it is to follow its avowed program of expansion, must inevitably swallow up *both* the privately owned power companies and the municipally owned electric utilities—or reduce the latter to the status of economic vassals so as to make them, in effect, sub-bureaus of the Federal agency, as to rates, services, standards, and virtually all major policy matters.

In the formative years of Federal power development, this situation was not in evidence. It is doubtful if a majority of the Federal "planners" of the early 1930's had progressed to the point of disclosing any comprehensive program for nationalizing the power industry in the United States as it affects the municipal plants.

During the years in which TVA was consolidating its position as the entering wedge for Federal power within five of our forty-eight states, this Federal bureau was forced to lean heavily on the municipal power bureaus already existing within our large cities. Obviously, no such program of socialization could expect to receive support from the management of the privately owned electric utilities. Therefore, when engineering know-how and the benefit of managerial experience were sorely needed at Knoxville, TVA called, in a large measure, upon municipal ownership management for assistance.

COÖPERATION thus sought was freely furnished to the Federal power agencies. There were no strings attached to such assistance. In the beginning it is not surprising that the city-owned utilities felt that their interests were more closely intertwined with Federal power than with the power company. Traditionally, the privately owned utility had always constituted the principal rival of municipal ownership. It was to be expected that the municipal power plant would welcome an alliance with a Federal organization which had for its objective the expansion of public ownership of our electric utilities.

In those early days of Federal power, coöperation between TVA and the management of large city-owned power bureaus was even, to some extent, one-sided. TVA was in no position to re-

ciprocate with immediate assistance to the municipal power agencies. TVA was battling to survive. It needed help all along the line—political, legal, and technical. It acquired engineering talent, accountants, and construction superintendents from the municipal plant organization.

Since few important municipal plants originally existed within the immediate area to be served by TVA, the Federal power authorities were in no position to repay city-owned electric utilities with dirt-cheap power generated at TVA dams. This came later, after the consummation of the "Lilienthal-Willkie" purchase of Commonwealth & Southern properties. However, in instances where the allocation of power from other dams (such as those along the Colorado river) had not already been taken care of, by legislative action, Federal power authorities were in a position to suggest that municipal plants would eventually get plenty of assistance—and they did, of a sort.

OUTSIDE of the TVA area, however, the big municipal plants continued to follow the time-proved principle of building soundly and maintaining control of their own purse strings. In Los Angeles, for example, the largest of all our municipal power bureaus went directly to the people of that community with its request for an appropriation of $13,000,000 with which to build its first great transmission line, by which Hoover dam power could be successfully utilized in Los Angeles industries. This petition of the power bureau was overwhelmingly approved by the electorate of Los Angeles—a community that contributed generously to any proposition that would enhance southern California's supply of electric power and water.

In Los Angeles, however, there next occurred an event which indicated a developing spirit of "get-it-at-Washington." Almost before the first high-tension line was completed, the general manager of the Los Angeles power bureau secured funds for the construction of an essential paralleling transmission line as a direct loan to the power bureau from a Federal agency. This instance is noted, not in any spirit of criticism, but simply to designate the beginning of a new era in matters pertaining to electric utility ownership. By then, it had become much simpler to go to Washington and request a loan for expansion of city-owned electric utilities than to go to the people of the community concerned and obtain approval of a municipal bond issue earmarked for this purpose. This was the point at which local government began

¶ *". . . for more than fifty years, there existed a democratic preference for municipal ownership in certain American municipalities. This functioned as a sort of balance wheel, to offset any trend toward autocratic monopoly of electric power generation and distribution. Or, to change the figure slightly, it was an escape valve protecting the public from any arbitrary abuses either by private companies or politically managed plants."*

to lose the first fringe of control over its affairs to Federal bureaus.

This was the way in which Federal power began to "repay" municipal plants for their pioneering activities in the American field of public ownership. Federal power discovered, in the process, a remarkably easy method of securing an increasing leverage of controlling pressure over the destinies of the locally owned electric utilities. Federal favors were always accompanied by Federal strings. Something vital went out of the local autonomy when the electorate of a community was no longer consulted in matters pertaining to the physical expansion of its power plant. Suggestions were made, and even plans were drawn in Washington. The voters were called in to ratify the result. And in the lush days of PWA handouts, such approval was readily given in many cities—in return for the Federal loans and grants.

SOME idea of the effect of this increasing attention of the Federal government on the establishment and growth of municipal plants is shown in the following recapitulation taken from early "central station" census figures and the more recent Federal Power Commission statistics.

Municipal ownership of central electric light and power stations first appeared in 1881 when one such company was organized. During the eighties, municipalities were loath to build plants and, as a result, nearly all electric light and power establishments were constructed by private capital. Towards the end of 1889, however, small municipalities, believing thoroughly in the benefits to be derived from central stations and yet unable to induce private capital to furnish the necessary equipment, began to set up their own companies.

This movement developed so rapidly that 815 municipal companies were in operation by 1902, the year of the first Federal census of electrical industries. Concerning the development of municipal ownership in the United States during the period 1881 to 1902, Thomas C. Martin, special United States agent, who compiled the text of the first census report, observed:

> The spread of the agitation for municipal ownership of public service enterprises is illustrated in a somewhat striking manner. . . . Of the 815 municipal stations enumerated, only 68 had been put in up to 1889. In that year, 40 were introduced, and, in 1895, the number of new stations reached 73, increasing in 1898 to 82. The returns for 1902 indicate that the ratio was fully maintained in the census year.

Thus the movement toward municipal ownership was fully maintained and going forward rapidly at the turn of the century.

BEGINNING in 1902 and continuing at intervals of five years until 1922, the Federal census of electrical industries showed more development of municipal ownership. *The number of municipal systems advanced from 815 in 1902 to a peak of 2,581 in the latter year, an increase of 216.7 per cent.*

After 1922, municipal ownership began to *decline*, as against the rapidly expanding privately owned electric utility industry. The U. S. census of electrical industries for 1927 showed a total of 2,198 municipal electric plants in the United States—as against 2,581

TAXES PAID IN NEBRASKA BY PUBLIC AND PRIVATE UTILITIES
(Figures Obtained from 1948 Annual Reports)

	Consumers Public Power District	*Three Hydro-Electric Public Power & Irrig. Districts**	*Public Service Co. of Colorado*	*Central Illinois Gas & Electric Co.*	*Iowa Power & Light Co.*
Utility Plant (Investment) ..	$43,575,399	$72,501,726	$109,718,387	$37,703,755	$60,377,812
Operating Revenue	9,670,333	4,849,001	33,246,006	10,902,299	15,984,381
Net Income (Before Interest)	2,814,510	1,091,443	5,341,167	1,965,532	3,313,467
Taxes (Including Federal) ..	315,677	11,642	6,480,650	1,582,758	3,281,783
% Taxes to Utility Plant	.7	.016	5.9	4.2	5.4
% Taxes to Operating Revenue	3.2	.24	19.5	14.5	20.5
% Taxes to Net Income	11.2	1.07	121.3	80.5	99.0

*1. Loup River Public Power District. 2. Central Nebraska Power & Irrigation District. 3. Platte Valley Public Power & Irrigation District.

in 1922. Ten years later—according to the U. S. census of electrical industries for 1937 there were only 1,860 municipal electrical establishments in the United States.

At this point we begin to see the effect of Federal financing and political encouragement for the establishment of municipal plants. The first "Directory of Electric Utilities in the United States" for 1941, issued by the Federal Power Commission, shows a total of 2,130 "municipal, county, state, and Federal-owned" utilities. Admittedly this composite figure is not strictly comparable with the early census figures for municipal plants alone. But the 1948 (latest issue) "Directory of Electric and Gas Utilities in the United States," issued by the Federal Power Commission, shows a total of 2,067 municipally owned electric utilities serving 2,316 communities. There were also listed separately 73 "state and federally owned" utilities (serving some 365 communities).

So, disregarding certain minor variations in classification, it would appear that the number of municipal plants in this country rose steadily between 1902—when there were 815—to a peak of 2,581 in 1922. Then under force of normal economic pressures, unaffected by interference from Federal government, the number of municipal plants drifted down to a total of 1,860, shown in the 1937 census. Since then they have increased to number

more than 2,000. The inference is clear here, however, without benefit of Federal funds, and Federal policies which blocked the steady absorption of municipal plants by private companies—so pronounced prior to 1922—*the number of municipal plants might still be drifting lower!*

OFFHAND, this would seem to indicate that the appearance of the Federal government in the municipal plant picture has been beneficial to municipal ownership. Certainly that is true, numerically. But from the standpoint of municipal control over its own plant, the advent of Federal interference is something else again.

It was back in 1913 that the Federal government first—apparently accidentally and without much strategic, long-range planning—began to interfere with municipal policy over local utility operations, *per se*. It was a modest and local beginning—affecting only one city—San Francisco. That was the passage of the Raker Act, which authorized the city of San Francisco to construct the Hetch Hetchy dam and reservoir on Federal property. Remember, this was a structure built by the city, with city funds. It received no financial assistance from the Federal government other than the permission to build on Federal lands and the necessary rights of ways for aqueducts, power lines, and so forth.

But a fairly innocent provision in the Raker Act was destined to be a virtual precursor of public power policy, in its most aggressive and expansive form, as we know it today. This provision permitted San Francisco the use of Hetch Hetchy water for municipal purposes; but forbid the city to use any of the hydroelectric power generated at its own plant for "selling or letting to any corporation, or individual, except a municipality or a municipal water district or irrigation district."

Although San Francisco had filed application to build the Hetch Hetchy system in Yosemite National Park as early as 1901, and the Raker Act granting such permission was not signed by President Wilson until December 19, 1913, Hetch Hetchy's Moccasin power plant was not ready to operate until 1925. The only outlet for power was Pacific Gas and Electric Company. Accordingly, an assignment or agency contract was agreed upon to permit the city to dispose of its power to the electric utility company, in apparent compliance with § 6 of the Raker Act.

This agency agreement went unquestioned by the Federal government until 1935 when Secretary of Interior Ickes suddenly decided that the leasing arrangement with Pacific Gas and Electric was a violation of law. After efforts by the city to please Ickes with various other substitutes, the Secretary of Interior got a Federal court injunction directing San Francisco to terminate its lease with the utility company by October 1, 1940. This was sustained by the higher Federal courts.

The significance of this San Francisco story is twofold. One, the Federal government was out to ram municipal ownership down the throats of the people of San Francisco whether they liked it or not. The Raker Act was used as a crowbar to squeeze the city into the power business. Two, the idea that the Federal government could attach such a valid condition to any Federal grant or concession (whether it be

land rights or money) was seized upon by the public ownership crowd in Washington as a model for establishing Federal domination over municipal plants, depending in any way on Federal assistance or coöperation.

THE result was that the "Raker restriction"—against a municipality doing business with private utilities on a coöperative basis—became a fixed feature in various Federal contracts between public power distributors and the Interior Department, the Tennessee Valley Authority, and in the rivers and harbors and flood-control acts of 1944.

Any municipality or other public agency leasing a wholesale supply of Federal power was forbidden to lease or sell to any other but a public agency.

As far as San Francisco is concerned, the Raker Act, as enforced by Secretary Ickes, failed to browbeat the city into municipal ownership. The voters repeatedly spit it out—on no less than eight occasions. Some sort of an exchange arrangement was finally worked out to satisfy the Raker Act. But to this day, as we shall presently see in the case of the Fort Randall dam controversy in South Dakota, the use of a Federal club to force municipalities into a Federal line is having its effect.

WITH the establishment of the Tennessee Valley Authority a new phase of Federal domination over the municipal plants came into being. Here again, TVA occupied the rôle of a Federal producer of a wholesale supply for municipal distribution plants in the TVA area. The TVA contract with these municipalities, however, contained not only a strict "Raker clause" against possible resale of such power to private utilities, but it also took away all control by the municipal plant officers over their own rates and revenues. TVA fixed the wholesale rates and then fixed the "retail" rates through its wholesale contracts. TVA also controlled the use of the revenues received by the municipalities from the retail sales of power from their own distribution plants.

This brand of Federal interference was challenged by the little city of Lenoir, Tennessee, several years ago. Lenoir City has a municipal distribution plant, receiving its wholesale supply from the TVA under the usual TVA contract. But when the city found that it was making a little profit on its rates, it decided to apply such earnings to a reduction of its municipal bonds or other indebtedness. This was contrary to the contract with TVA which requires that such funds should be applied towards a reduction in rates.

¶ "IT *was back in 1913 that the Federal government first—apparently accidentally and without much strategic, long-range planning—began to interfere with municipal policy over local utility operations,* PER SE. *It was a modest and local beginning—affecting only one city—San Francisco. That was the passage of the Raker Act, which authorized the city of San Francisco to construct the Hetch Hetchy dam and reservoir on Federal property.*"

Lenoir City went to court in defiance of TVA, taking the position that the city had a right to use its own municipal plant earnings as it pleased, contract or no contract. It argued, among other things, that the inherent right of a municipality to use and dispose of its own properties could not be bartered away by contract. But such argument was in vain and TVA was upheld in the courts.

This means, of course, that similar rate controls can be and are being exercised by other Federal power agencies over wholesale municipal plant customers. Reclamation Bureau, Bonneville Power Administration, and Southwestern Power Administration can all validly use the availability of cheap wholesale Federal power supply as a basis for taking over a municipal plant's rate controls.

STILL another phase of Federal domination over municipal plant was ushered in with the Public Works Administration's program of grants and loans in the late thirties. And that has to do with its effect on tax collections. In the state of Nebraska, private electric utilities are about extinct because of the persuasive effect of PWA financing for the public agencies which bought out all the companies in that state.

And yet when the state of Nebraska considered, several years ago, the imposition of a tax on these public districts the Federal government appeared in the rôle of a bondholder to object. Federal attorneys argued that a state tax on the public districts in Nebraska would jeopardize the risk of the Federal security. There were veiled hints that if the state went through with the tax on its own districts, there might even be something in the nature of a Federal foreclosure. The result was that the state became frightened and backed away from taxing the public power districts on any basis similar to the comparable amounts paid by private utilities in Nebraska. (Cf. p. 291.)

Another angle in this Nebraska experience was the displacement of municipal plants by the public districts. Municipalities in that state find themselves served by a regional political agency not subject to state regulation —whereas in the ordinary course of events these municipalities might well be running their own municipal plants. The interfering factor, of course, was the Federal government which set the public districts up in business.

Only a few weeks ago, the city council of McCook, Nebraska, home of the late Senator Norris, voted to hold a special election for the purpose of taking over and establishing a municipal plant in place of the present services being rendered by the North Platte Public Power and Irrigation District.

FEDERAL domination along this line is even giving such old and well-established municipal plants as Seattle and Tacoma, Washington, something to think about. Federal encouragement of the county districts to buy up private utility properties in Washington state is commonly looked upon as the first step towards promoting a rural public power rivalry that would give the city plants real difficulty if a federally controlled Columbia Valley Authority is once established. Seattle and Tacoma both know that they can make a long-term deal with Federal power agencies only at the expense of losing

their own independent control and liberty of action. The municipal plant at Eugene, Oregon, found that out sometime ago, when it decided to build its own steam plant.

Consider, finally, the activity of the Federal government in promoting rivalry between public power agencies in the various states. The new Federal plant at Fort Randall, South Dakota, will soon make available a large bloc of public power for wholesale supply. Of course the Federal government would never dream of selling this power on a "come-and-get-it, first-come-first-served" basis, which any private business corporation would adopt. That would be giving the Federal taxpayers too much of a break. Federal government must operate under its "public power preference" policy, and look around for public ownership customers. It so happens that South Dakota is not a public ownership state. Nebraska *is* a public ownership state, as already noted. Thus, it appears that South Dakota, where the dam is located and whose lands are flooded by the reservoir to protect downstream states from flood damage on the Missouri, faces the threat of getting none of the South Dakota dam power at all.

On January 28th, Secretary of Interior Chapman, in a speech at Grand Island, Nebraska, told the Nebraska public power districts that if they would just hang together they could get virtually 100 per cent "preference." "I don't see any reason why you people in Nebraska can't get together on this thing," said Chapman. "Your groups are all preference customers."

But when the governor of South Dakota proposed to set up a state public power authority so as to qualify as a "preference" customer, Secretary Chapman said in effect "nothing doing." Chapman was too afraid that the South Dakota agencies might be contemplating the resale of some of this power to private utilities. That would go against the original Raker policy pattern. At this writing, South Dakota does not know what it will do. Its municipalities are under pressure either to set up hasty municipal plant organizations or throw open their services to some "district" or other group that would qualify as a "preference" customer. Failure to do this would risk losing forever the advantage of Fort Randall dam power—all generated in their own state. And yet if these municipalities do decide to go into business they must resign themselves to becoming slaves of Federal domination as to rates, services, revenues, etc.—as in the case of Lenoir City, Tennessee.

Finally, unless the management of a city-owned electric utility is honestly sold on the inevitability of world Socialism, it must look to local financing and home rule as a foundation for any permanent municipal undertaking, as such. How can the Federal government, which preached the dangers of centralization in the field of private utility companies so successfully that Congress ordered the SEC to break up the holding companies in little pieces, now move so relentlessly in the opposite direction with respect to public power agencies? If bigness is a crime for private business, what makes it become desirable for the same kind of government business? Are the limitations and pitfalls of "absentee manage-

ment" so different under government control, as compared with private company monopoly and abuse? Or does the octopus turn into an angel by the simple process of switching the mailing address from Wall Street to Washington?

THE fate of recent departed municipal power plants in Great Britain gives the answer plainly enough. For decades, scores and scores of these British municipal power plants existed side by side with British private companies. Then the British Labor party, and later the British Labor government, began to feel sorry for these little "municipal undertakings"—as they are called in England. Like the little oysters in "Alice in Wonderland," they all disappeared into the common maw of British Socialism. There is a lesson here, surely, for municipal power plants in the United States. Private utilities can never hurt them. But against a rapidly expanded Federal Socialism, they are just as defenseless as the private electric companies, in the long run.

And what about the possibility of a reaction in this country against the present Federal trend towards Socialism? How could this affect the municipal plants now tied like so many "satellites" to Federal apron strings? If ever a countertrend sets in, the management of the local municipal plant would have everything to gain and nothing to lose by preserving its independence and breaking clean with Federal domination.

Any other course of action would cause the citizen voter to view Federal power and municipal ownership as but two sides of the same coin. If and when a reaction to the grandiose schemes of Federal centralization sets in, the city-owned electric utility must be in a position to prove its complete separation from, and active opposition to, any comprehensive plan to socialize American industry.

"A REPORT *made by the U. S. Chamber of Commerce had this to say about the electric power situation: 'In two sections of the country, the Tennessee valley and the Pacific Northwest, public power has driven private capital out of new plant construction. These regions today find themselves right back in the lap of Congress, where they must plead their need for development, project by project, before appropriation committees. . . .*

" 'When any region gives the government a monopoly of an essential service, or when it permits the threat of continuing socialization to prevent private development, it is simply asking for trouble. Its progress or lack of it then depends upon the whims of Congress, which may change drastically from session to session. It is placed in the position of a mendicant asking for alms. . . .'

" 'Public power' is one way of depriving the public of power it would otherwise have! Power shortages seem to be by-products of political power monopolies."

—EXCERPT *from "Business Action," published by the Chamber of Commerce of the United States.*

Washington and the Utilities

President's Tax Program

PRESIDENT Truman's tax proposals, as presented to Congress by Treasury Secretary John W. Snyder, offer little that is encouraging to the utilities—or to anyone else for that matter. Snyder's presentation was carefully phrased to give an impression that the program was specifically designed to help small business and relieve the tax burdens of low income groups, through reduction of certain excise taxes, while it recovered for the government approximately $1 billion in revenue, supposedly escaping through numerous "legal loopholes." In addition to plugging of loopholes, the administration asked that taxes on corporate earnings be raised from 38 per cent to 42 per cent to produce approximately $675,000,000. This sum, Snyder said, would offset about 75 per cent of the revenue to be lost through reduction of the excises.

On careful analysis, Secretary Snyder's statement lends itself to a certain degree of political inference. He declared the Treasury Department, after careful study of needed tax revision, had arrived at a decision to recommend elimination or reduction of those taxes which are most burdensome to the industries affected, which create most serious competitive problems, and "which fall with undue weight upon low income groups, and which impose barriers to investment and consumption."

Utilities Levies

IN the area of excise taxes upon communications, the administration would only reduce levies on long-distance telephone and telegraph tolls, *retaining* the 15 per cent tax on local telephone service which produces more than 50 per cent of the excise revenue from communication sources. The industry needs no reminder in these columns that small businesses and the low income groups are heavy users of local telephone services.

Other excises President Truman would keep, all of them affecting the public utilities as well as adding directly to the cost of living for the "common man," include those on electric, gas, and oil appliances; electric light bulbs; electrical energy; and radios. In addition, the President asks a new tax, 10 per cent on the manufacturer's price of television sets.

Other Tax Recommendations

IN the field of transportation, the program calls for repeal of the 3 per cent tax on transportation of property, but would only reduce from 15 to 10 per cent the tax on transportation of persons—by rail, bus, air, etc.—leaving business and the casual traveler burdened with an annual transportation tax of $150,000,000.

Selecting a few isolated cases and fringes in the oil and gas industry, Secretary Snyder declared the present 27½ per cent depletion allowance should be reduced to 15 per cent. The petroleum industry came back with the assertion that the fringe instances cited by the Secretary were not typical of the entire industry. To follow the President's recommendation would weaken the industry's ability to find and develop the gas and oil reserves on which the nation depends for its economic progress now and in the future, and for its security in time of war, industry spokesmen declared. Representative Hale Boggs (Democrat, Louisiana), himself a member of the tax-writing Ways and Means Committee, was

quite critical of the administration's proposals.

Business operations for the profit of charitable, fraternal, and religious organizations—when competitive with private enterprise—should be taxed, the Secretary said, but he made no allusion to those highly competitive business ventures of coöperatives and certain labor unions. However, these are getting serious study by some members of the Ways and Means Committee as well as by the House-Senate Joint Committee on the Internal Revenue.

This by no means constitutes a complete résumé of the administration's tax program, but it does touch those portions of it directly affecting the utilities.

REA-Interior Alliance

It has been apparent for some time that some of the faster thinking minds in the Department of Interior have worked out a rather clever plan to bypass Congress—heretofore loath to appropriate funds for steam electric plants—and get the steam plants anyhow. Implementation in the form of actual proof of the pudding was announced during the past fortnight. Whether it has been effectuated by direct alliance or collaboration with the Rural Electrification Administration, or the latter is merely being used as a pawn of Interior, is not yet clear. However, the plan is working, but may yet have the whistle blown by a suspicious Congress.

Creation of super coöperatives is the keystone of Interior's plan, and two recent instances amply illustrate its operation—a loan of $18,393,000 to the N. W. Electric Power Coöperative, of Savannah, Missouri, and another loan of $12,555,000 to the Western Electric Coöperative, of Hollis, Oklahoma. Both are made up of REA-financed distribution coöperatives, and both are in areas now served by the Southwestern Power Administration.

The N. W. Coöperative will use the loan to build a 40,000-kilowatt steam generating plant in the vicinity of Missouri City, 257 miles of 154-kilovolt and 505 miles of 69-kilovolt transmission lines, and related substations and switching facilities. The N. W. system will tie in with that of the Southwestern Power Administration which has contracted with the super coöperative to purchase the *entire* output of the plant and to rent and operate the major portion of the 154-kilovolt lines for a period of forty years. In return, Southwestern Power Administration, marketing agency for such public power developments as the Bull Shoals and Norfork dams in Arkansas and the Denison dam in Texas, will sell up to 40,000 kilowatts of power to the new coöperative at its schedule "A" rates. In this way, Southwestern gets a steam plant in its grid without bothering to ask an appropriation from a Congress that thus far has not been too friendly to the idea of government-built steam plants. The Western Electric Coöperative will build a 30,000-kilowatt steam generating plant near Anadarko, 877 miles of 69-kilovolt transmission lines, and 13 new substations. This system also will tie in with that of the Southwestern Power Administration under contracts similar to those made with the N. W. Electric Power Coöperative, again by-passing Congress in the matter of approval of and appropriation for a steam generating plant.

In the meanwhile, Representative Boyd Tackett (Democrat, Arkansas), seeing the move as one to circumvent Congress and bring about nationalization of the electric power industry, has introduced a bill (HR 6782) which would require congressional approval of loans to super coöperatives. Commenting on his proposed legislation, Representative Tackett declared that REA should stick to its primary responsibility of getting electricity to unserved rural persons, rather than play stooge for the "socialistic plotters" of the Interior Department. Senator Elmer Thomas (Democrat, Oklahoma), an advocate of a uniform Federal power policy, has introduced a Senate measure, identical with Mr. Tackett's.

That Interior may be cutting pretty sharp corners can find a certain amount

of substantiation in the fact that during the same period Southwestern Power Administration was negotiating the two described contracts, it was also going through the motions of negotiating contracts with a private utility within its area of service, modeled along lines similar to its contract with the Texas Power & Light Company.

Mystery Begins to Clear

It now seems that the President's newly created Water Resources Policy Commission may be chosen to "call the signals" on water resources development activities of the Department of the Interior and the Army Engineers. Supporting this thesis is the recent action of the House Public Lands Committee in deferring action on HR 1770 until such time as the new commission has studied it and makes a recommendation to Congress.

If HR 1770 is enacted, it would liberalize terms of reclamation contracts generally, and give to the Secretary of Interior the responsibility of "authorizing" new projects—subject only to subsequent congressional appropriation of necessary funds. The so-called "findings" which the Secretary of Interior would be required to make under such circumstances, roughly follow the general outline of the functions given the new commission in the presidential order which created it.

For some weeks, reticent about its plans and intentions, the commission now states that it proposes to study "all" water problems of the nation, including those of flood control, inland navigation, hydroelectric development, pollution abatement, salinity control, municipal and industrial water supplies, with side excursions into the fields of natural gas, petroleum, and solid fuels. Commission Secretary Leland Olds informally explained these side ventures as necessary because development of synthetic liquid and gaseous fuels from shale will require vast quantities of water.

Up to the present time, the commission is without statutory authority, but it is recalled that Rural Electrification Administration, like the new commission, was originally created by presidential order and a year later it was confirmed by statutory action.

Natural Gas in Congress

There appears a possibility that the Kerr Bill (S 1498), to amend the Natural Gas Act, may get early Senate action and final White House approval. Already approved by the House in slightly different form, Kerr's bill would exempt independent producers and gatherers of natural gas from Federal Power Commission jurisdiction. Senator Kerr (Democrat, Oklahoma), heretofore hesitant to push his bill in the face of an indicated presidential veto, now has written a face-saving compromise believed to be satisfactory to the President.

Recently, with the joint sponsorship of his senior colleague, Senator Thomas (Democrat), Kerr introduced a substitute to be offered as an amendment when the Senate takes up his own bill. There is little change, as compared with the original bill reported by the Senate Interstate Commerce Committee, other than the addition of a "watch-dog clause" directing the Federal Power Commission to keep an eye on natural gas producers to be sure that no monopolistic combinations develop to interfere with competitive gas prices. In the event the commission finds such a thing is happening, it would be required to report the facts to the President and Congress. In reality, this gives the commission no more policing authority than it now has. However, reports are current that Senator Kerr has thus swept away roadblocks which the administration placed against the bill in the Senate.

The Crosser Bill (HR 5306), to give the Federal Power Commission jurisdiction over security issues by natural gas companies, may remain with a House Interstate Commerce subcommittee, headed by Representative Harris (Democrat, Arkansas), for an indefinite length of time, even to the end of the session, without action one way or the other.

Exchange Calls And Gossip

Small Phone Tax Cut

THERE is some disappointment in Congress over the meager reductions in excise taxes proposed by the Treasury Department to the House Ways and Means Committee. Treasury Secretary Snyder suggested a cut in the 25 per cent tax on long-distance telephone and telegraph messages to 15 per cent, but no cut whatever in the 15 per cent tax on monthly telephone bills. He also proposed a cut in passenger fare taxes (plane, train, bus, etc.) from 15 per cent to 10 per cent and wiping out of the 3 per cent freight transportation tax.

Several committee members, led by Representative Eberharter (Democrat, Pennsylvania), are planning to fight for a cut, by as much as a half, in the present 15 per cent tax on monthly telephone bills.

They feel that small business and residential subscribers have as much right to tax relief as the users of long-distance communication services. A more conservative guess among political dopesters is that Congress will finally cut the monthly telephone bill tax from 15 to 10 per cent.

The Truman administration also asked Congress to tax television sets 10 per cent, cut other sales taxes, and increase top corporation income levies in an overhaul of revenue laws figured to raise Treasury income $1 billion a year.

Treasury Secretary Snyder took the administration's extensive program to Capitol Hill, where he immediately bumped into strong demands that heavier slashes be made in the sales and other Federal excise taxes. From business circles also came cries that the reductions proposed were not enough for business health.

Bell Advertising Irks CWA

THE Communications Workers of America has asked the Federal Communications Commission and forty-eight state regulatory bodies to investigate the wave of "antiunion advertising" being placed in daily newspapers throughout the country.

CWA-CIO, currently in dispute with the Bell system over wage increases and other contract matters, asked the rate-making bodies to rule on whether this advertising is a "properly allowable operating expense to be paid for by the phone-using public."

Writing to the state commissions, CWA President Joseph A. Beirne said:

> We are not asking the commissions to decide the strike issue. Nor are we asking them to decide whether the ad copy presents a correct picture of the facts.
>
> We are, though, asking that you rule on whether advertising aimed specifically at prevention of wage improvement in the telephone industry is a properly allowable operating expense to be paid for by the telephone-using public.

Telephone companies across the country have obtained annual rate increases since the end of the war totaling $348,000,000. A number of cases still are pending and Leroy Wilson, AT&T president, has announced that further requests will be made.

It is high time state and Federal rate-making bodies called a halt to the

Bell system's campaign to jack up rates, while at the same time they spend much of the money they get from the public in higher rates on a high-pressure advertising campaign.

The last-minute delay in the threatened telephone strike was more or less expected in Washington. It explains one of the puzzling aspects of the earlier professed decision by the CIO Communications Workers of America to call a strike when less than a third of its membership was in a position (because of unexpired contracts) to walk out. It is now believed that the earlier call was in the nature of a general "alert." CWA will be able to muster its full strength for a national strike not earlier than March 1st.

So, it would not be surprising if the strike deadline, February 24th, were again extended by CWA. President Truman may intervene when the strike again becomes imminent. Union leaders commonly regard such extensions as good tactics in bidding for public sympathy for strike support.

ONE complication for the national telephone strike is causing some concern to CWA. It is the existence of several state laws prohibiting utility strikes, without recourse to state mediation machinery. Such laws now exist in New Jersey, Virginia, Wisconsin, Florida, and elsewhere, depending upon local interpretation.

If CWA chooses to disregard these state laws, and pulls the telephone workers off the job in those states, as part of a national strike effort, a series of state court actions would commence. Such procedure might well result in confirming the validity of state antistrike laws—a result which neither CWA nor CIO wants.

So far, the position of CWA seems to be that a national telephone strike is an interstate commerce proposition, beyond the power of state law to interfere. But as a precautionary measure, CWA may decide not to pull out the workers in some states where utility antistrike laws exist.

FCC OK's Phonevision Tests

A SCORCHING dissent by Commissioner Edward M. Webster failed to deter the Federal Communications Commission from approving a 90-day test run of "phonevision" experiments over station KS2XBS, Chicago, Illinois. The commission's ruling (5 to 1) authorized Zenith Radio Corporation to conduct subscription television at a charge of $1 per program to 300 "test" subscribers—without further hearing by the FCC.

The FCC found that "phonevision" is a subscription (paid) television technique whereby a scrambled program is sent out partly by air and partly by telephone wires to the paid subscriber. This subscriber may obtain (through a technical device in the receiving set) a clear and unscrambled reception of this program upon request to the telephone operator.

Three hundred families in the Chicago area will get a chance to see first-run motion pictures at home on their television sets as a result of the FCC's authorization. The commission reversed its previous stand by giving Zenith permission to find out if the public wants "pay-as-you-see" programs—without the formality of an earlier hearing or finding by the commission.

Commissioner Webster dissented on four grounds: (1) He said it was the first step towards the introduction of subscription (paid) television and radio in the American system of broadcasting, and should not be lightly undertaken—even on such a limited basis—without full and deliberate FCC consideration. (2) If the FCC should authorize subscription television and it proves profitable, every television station in the country "will be pounding on the commission's door" for the issuance of such "franchises or the rates charged therefore." (3) Zenith should not be permitted to conduct experimentation looking forward to the development of a new service in the regularly assigned television broadcasting band because it interferes with orderly planning and allocation of frequencies and places the commission under the pressure of an "accomplished fact." (4) It

is reasonable to expect that the limitations for a 90-day test period for 300 subscribers will only be a start, and that efforts will be made to extend the time and broaden the scope.

COMMISSIONER Jones, who originally voted against the experiment without hearing, wrote a brief concurring opinion in which he said he still had considerable doubt about the situation. But he believed that the 90-day period afforded a sufficient limitation to guard against the experiment getting out of hand. He thought the Zenith Radio Corporation was entitled to that much of a chance to show what it could do by way of appealing to public approval for its proposed specialized television service.

A brief concurring opinion by Commissioner Hennock fully endorsed the motion of Zenith Radio Corporation and referred to the Communications Act as requiring the commission to "encourage" new developments.

AT&T Approaches Millionth Stockholder

SOME 940,000 people — the greatest number ever to own any private enterprise in the world — today are stockholders of the American Telephone and Telegraph Company.

The new all-time high means that about one family in fifty in the United States now holds AT&T stock, the company announced recently.

More than 175,000 of them are employees of the AT&T Company and its subsidiaries which collectively comprise the Bell system. Stock certificates were being mailed to over 150,000 employees who have purchased stock through monthly payroll allotments begun in December, 1947, under the Employees Stock Plan.

"It is the faith of the company's owners —old and new—that has enabled the company to grow and keep pace with the public's demand for more and better telephone service," asserted Leroy A. Wilson, president. "The people who own this business are a true cross section of America. They live in every state in the nation. Their AT&T stock in many cases constitutes most or all of their savings. A large number of them, past experience indicates, bought the stock 'for keeps,' with confidence in the business and with the belief that regulatory authorities will approve telephone rates adequate to assure a fair and stable return on their investment. More than 350,000 of them have been telephone stockholders for ten years or longer.

"The telephone industry is young and still growing," Mr. Wilson continued, "and the market for telephone service is far from saturated. The industry's ability to meet its obligations to the public depends on earnings sufficient to protect present stockholders and attract new ones—people who are willing to invest their personal savings to help keep this country's telephone service the best in the world."

The company pointed out that most of its owners are small stockholders—about one-third of them own five shares each or less. The average holding, including institutions which themselves represent thousands of individuals, is less than 30 shares.

No stockholder owns as much as one-half of one per cent of the total outstanding stock.

Streetcar Radio Still Buzzing

TRANSIT radio in the nation's capital, already threatened with court opposition by the so-called Transit Rider's Association, is now faced with further opposition in the form of prohibitive legislation. Representative Walter Norblad (Republican, Oregon), himself a user of public transit facilities, has introduced a bill (HR 7150) which would ban commercial radio broadcasts on busses and streetcars operating in the District of Columbia, and impose a fine of $1,000 a day for each day of violation.

The Oregonian told newsmen commercial radio aboard transit system vehicles is violative of the privacy of "helpless" passengers.

Financial News and Comment

By OWEN ELY

Review of Progress with Holding Company Dissolution Program

MODERATE progress has occurred on the far-flung front of the holding company dissolution program since the last quarterly review in this department (November 24th, pages 722-725). The following is an alphabetical summary of the recent status of individual systems:

American & Foreign Power finally obtained about $15,000,000 cash through the reshuffling of Cuban Electric Company securities, in a deal with Electric Bond and Share. However, the New York banks making the loan collateralized by Cuban Electric securities required a dividend restriction—so that if dividends should be resumed on the preferred stock, the company will have to pay 50 per cent of the amount toward the bank loan. Thus it appears rather unlikely that these dividends will be resumed over the near term. The question of a new recapitalization plan has been discussed informally with the SEC and with stockholder interests, but no tangible plan has been developed thus far. System earnings showed substantial gains up to several months ago, but some irregularity developed later; the 1949 annual report should make a good showing.

American Power & Light. The final plan was described in the previous review. After some delay accounted for by tax problems, distribution of the new securities was set for February 15th. Sale of Pacific Power & Light was hurriedly consummated early in February, in order to meet a favorable tax deadline one week before the distribution date. (See February 16th issue, page 240). Trading in the stocks of the subsidiaries has been quite active, with strength in Texas Utilities and American Power & Light new, the latter having appreciated about 50 per cent since the initial trading. The sale of Pacific Power & Light after some spirited bidding by competing banking groups has apparently raised hopes that the larger subsidiary, Washington Water Power, can be disposed of for more than its book value, by sale to public power districts.

ARKANSAS NATURAL GAS on January 26th filed a plan with the SEC for separation of its utility properties from the oil and gas production-distribution facilities. Arkansas-Louisiana Gas (a subsidiary) would take over the gas distribution pipeline and ancillary gas production properties, while Arkansas Natural Gas (a new company) would

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acquire the production and marketing facilities, including Arkansas Fuel Oil Company. Under the plan each share of Arkansas Natural Gas A and common stocks would be exchanged for one share of common of each of the newly formed operating companies; the 6 per cent preferred would receive new 3¾ per cent preferred in the amount of $10.60 par value, for each share of present preferred (par $10).

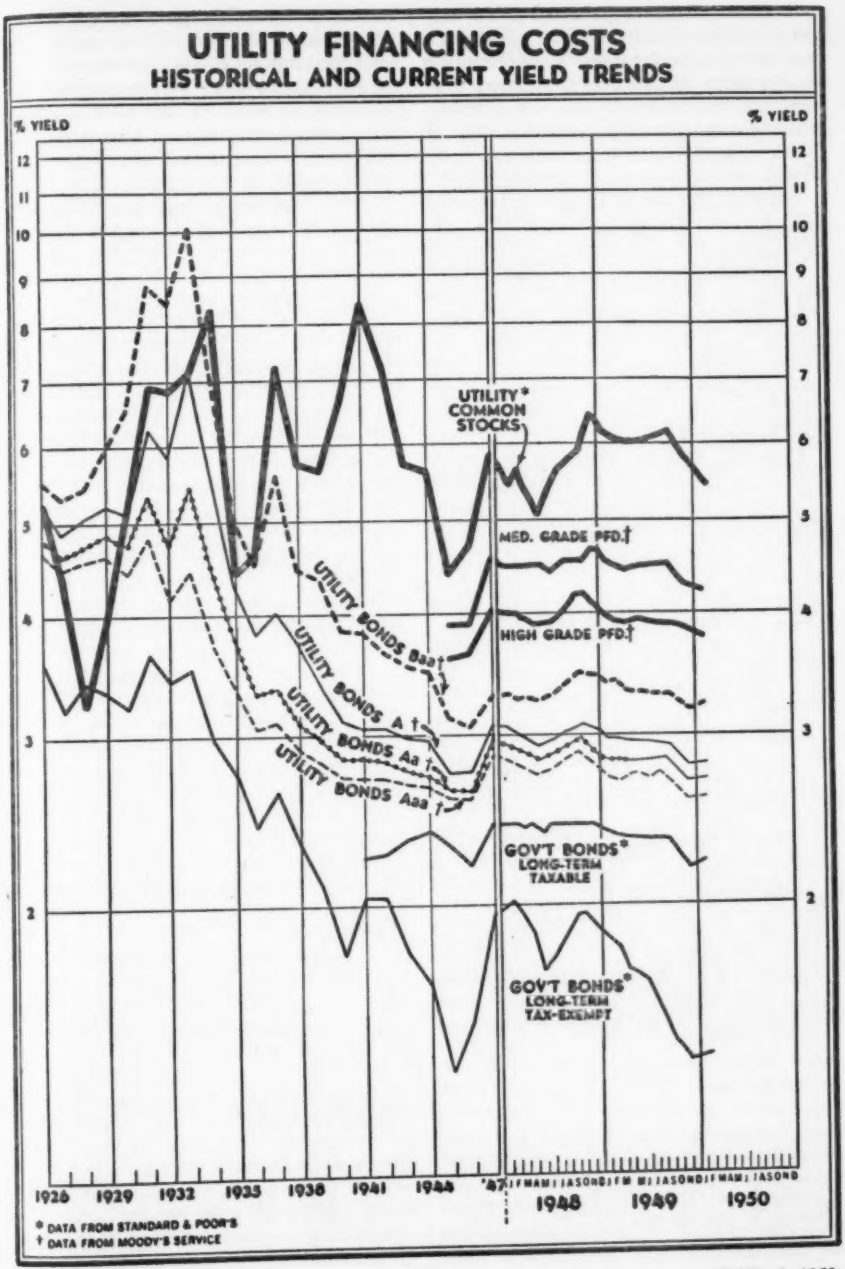
A committee has been formed by Samuel Brier, C. Perry King, and Herbert H. Lederman to solicit support of other class A stockholders in opposition to the plan. Percival E. Jackson, counsel for the committee, maintains that the class A stockholders have large claims against Cities Service Company and the Benedum-Trees interests, principal holders of the common stock, and that their holdings should not be accorded equal treatment with those of the public holders. Under the proposed split of Arkansas Natural Gas, Cities Service would acquire 51 per cent of the common stock of each new firm, but would have to sell to the public its interests in the utility company.

CENTRAL PUBLIC UTILITY. A new committee has been formed to represent debenture holders, composed of N. M. Hammerling, chairman, Harold Barnett, secretary, and W. F. Knorr; Nemerov & Shapiro of New York and H. B. Lipsius of Philadelphia are counsel. The committee is opposing the company's plan because it wishes to retain present large tax savings as long as possible, and these will be largely dissipated when the debentures are retired. The committee proposes issuing new bonds and new stock in place of the existing income bonds. It may also question the sale of subsidiary stocks if the sale seems detrimental to the interests of bondholders. The company on October 25th filed with the SEC an outline of a plan, with the understanding that amendments would be filed from time to time to define procedure more exactly. The plan provided for merger of the three holding companies (Consolidated Electric & Gas, Central Public Utility, and Islands Gas & Electric). Eventually common stock would be issued in exchange for the CPU debentures.

Central States Electric Corporation. An amended plan of reorganization was filed with the U. S. District Court at Richmond by the Kelly committee, representing the 6 per cent preferred stock. The committee recommends that the 5 per cent debentures be paid off in full, with interest; that the debenture 5½s be paid all the arrears of interest, and that the reorganized company either buy or call $1,000,000 face amount of the bonds each year commencing April 1, 1951. The 7 per cent preferred stock would remain undisturbed; and holders of the junior preferred stocks would receive rights to buy 8 shares of new common stock plus $14 of new 4½ per cent junior income debentures at a combined unit price of 18. Holders of the old common stock would have the right to exchange each five shares for one new common share and $1.75 face amount of new debentures.

On December 20th the SEC filed an advisory report with the district court urging approval of the trustees' plan with certain modifications. Central States would be merged with Blue Ridge (forming an open-end trust) while American Cities would be liquidated. Debenture holders would be given new stock, plus interest and a premium not less than 5 per cent of their claims (as compensation for loss of position, etc.). The 7 per cent preferred would be given new stock in an amount equal to the value of the remaining assets. In the event there were assets left over after meeting the senior stockholders' claim, holders of the 6 per cent preferred might receive something.

CITIES SERVICE COMPANY completed its sale of Ohio Public Service common stock to Ohio Edison. Sale of Toledo Edison and integration of the Arkansas Natural Gas system are the principal remaining steps to effect compliance with the Holding Company Act.


UTILITY FINANCING COSTS
HISTORICAL AND CURRENT YIELD TRENDS
% YIELD
% YIELD
UTILITY* COMMON STOCKS
MED. GRADE PFD.†
HIGH GRADE PFD.†
UTILITY BONDS Baa†
UTILITY BONDS A†
UTILITY BONDS Aa†
UTILITY BONDS Aaa†
GOV'T BONDS* LONG-TERM TAXABLE
GOV'T BONDS* LONG-TERM TAX-EXEMPT
1926
1929
1932
1935
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1941
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* DATA FROM STANDARD & POOR'S
† DATA FROM MOODY'S SERVICE

Eastern Utilities Associates. A Boston committee headed by R. P. Cromwell has been formed to represent common stockholders in the reorganization proceedings before the SEC. The committee will urge that, in any plan, the $2 dividend preference of the common stock should be given primary consideration.

Federal Water & Gas. On January 14th Federal Judge Leahy at Wilmington signed the formal order enforcing the dissolution plan. The judge denied the claims of C. T. Chenery and associates for about $2,300,000. The Chenery claims have been traveling from one Federal court to another for some years, and another appeal is considered possible. The New York Water Service claim may also be appealed.

General Public Utilities recently agreed to sell the entire common stock of Staten Island Edison to Consolidated Edison for a base price of about $10,700,000, thus disposing of its last New York state subsidiary. Remaining subsidiaries in Pennsylvania and New Jersey are fully interconnected and integrated, with the exception of Northern Pennsylvania Power (revenues only about $4,000,000). It is conjectured that the electric properties in the Philippine Islands (Manila Electric, etc.) may eventually be distributed to stockholders of GPU if an advantageous sale cannot be developed.

International Hydro Electric. The proposal to retire the debenture bonds (the face value of which has been reduced 40 per cent) has been approved by the Federal court. This involves sale of about $5,000,000 stock of Gatineau Power and raising a $10,000,000 bank loan. The company has retained First Boston Corp. to aid in the sale of Gatineau, and possibly give further aid in connection with eventual dissolution. The SEC has not yet considered the next step in Trustee Brickley's plan; namely, the issuance of 2,000,000 liquidating certificates, which he proposes to distribute in the ratio of 8 to each share of preferred stock and 1 to each share of A stock. It seems probable that the Todd committee representing the class A stock will oppose the plan when it comes up for consideration. Accordingly, final dissolution does not appear imminent.

LONG ISLAND LIGHTING'S plan was approved on November 17th by the SEC, by the New York state commission (tentatively) on January 27th, and by a Federal court February 10th. The SEC on November 2nd had stipulated certain changes in the plan, which the company adopted. Under the final plan the new common stock of the merged company will be distributed as shown below.

The old 7 per cent preferred stock is currently selling around 131 which would make the corresponding "when-distributed" price of the new common stock about 12½. In the calendar year 1949 the company earned $1.14 per share (*pro forma*) on the 3,149,697 common shares to be outstanding under the plan, compared with 88 cents in the previous year. Dividend policy has not yet been announced, but if the new stock pays 80 cents (70 per cent of earnings), the yield would approximate 6.4 per cent. With a 75-cent rate the yield would be 6 per cent and with a 70-cent dividend, 5.6 per cent.

No recent progress has been reported with Consolidated Edison's proposal to acquire a substantial interest in Long Island Lighting through an exchange

	No. Shares Common Rec'd. Per Share	*Percentage of Entire Issue of Common Rec'd.*
Long Island Lighting 7% Pfd.	10.4	77.0%
Long Island Lighting 6% Pfd.	9.2	
Long Island Lighting Common	.06	5.7
Queens Borough G. & E. Pfd.	5.42	11.5
Nassau & Suffolk Ltg. Pfd.	6.70	5.8
		100.0%

offer of its convertible debentures for the new common stock. There seems to be some doubt whether Edison would be allowed by the New York Public Service Commission to carry its investment at the cost figure, under this proposal, and hence the deal (still before the SEC awaiting approval) may not materialize. Edison is now making a contract with General Public Utilities to buy Staten Island Edison.

MIDDLE WEST CORPORATION has filed a plan with the SEC for eventual liquidation. Middle West proposes to pay a liquidating dividend of $2.25 in cash, principally out of the proceeds of sale of the Canadian properties, made in December. Since both SEC and court approval will be sought, a few weeks may be required to clear the way for this payment. In order to receive the payment, stock certificates will be turned in for cancellation. The small remaining assets will be gradually liquidated, and minor remaining claims taken care of, probably by December, 1951, after which date a final cash payment will be mailed to stockholders of record. On the basis of present available information it is impossible to determine the value of remaining assets, but it is estimated that the final payment might be in the range of 50-75 cents. The stock is currently being traded at 2⅝-11/16. (The quotation has remained unchanged for some days.)

New England Public Service. The company is still slow to dispose of its holdings in its three New England utility subsidiaries in order to pay off its bank loan, or to form a plan for allocation of remaining holdings between the plain preferred and common stocks. The question of paying the call premiums on the prior preference stocks (retired sometime ago at par and dividend arrears) has not yet been settled, although the present bid prices for the stubs indicate little doubt in the Street that they will receive virtually all of their claim. A new committee representing the comon stock was recently formed, consisting of David J. Greene, chairman, W. H. Steiner, and Frank Wolfe. The secretary is Morton J. Klank, 325 West Seymour street, Philadelphia. The committee intends to act vigorously to oppose payment of premiums on the prior preference stocks, as well as to claim an adequate allocation of assets for the common stock.

NIAGARA HUDSON POWER. The new stock of the merged subsidiary, Niagara Mohawk Power, has now been listed on the New York Stock Exchange and has advanced to 23½, or about a 6 per cent basis based on the indicated $1.40 dividend rate. The new company earned $1.94 on its common stock in 1949. Common stockholders of Niagara Hudson Power have the option of making a contribution of $1 and receiving 78/100 share of Mohawk immediately; or they can retain their Niagara Hudson (without dividends) until around the year end or early 1951, when the Mohawk stock will be delivered "free." Tax considerations may govern the choice.

North American Company. Wall Street houses now estimate the break-up value of North American around 24-5, in view of the sharp improvement in the earnings of Union Electric of Missouri, the principal remaining asset. However, there is no official indication that the holding company will be dissolved.

Northern New England Power. The company owns about 1⅜ shares of New England Public Service for each share of its own stock outstanding. There would seem to be little reason for keeping the small holding company alive. The Greene committee mentioned above also represents stockholders of this company, as well as NEPSCO common.

Philadelphia Company. There have been no important developments since our last review, except for some Wall Street analyses which have contained optimistic estimates of the company's break-up value. These estimates were largely based on forecasts of sharply increased earnings power for Duquesne Light over the next year or so, though earlier estimates of 1949 figures have now been scaled down. The SEC has not yet

acted on the company's modified plan of recapitalization.

STANDARD GAS & ELECTRIC on January 19th announced that it might sell either all the common stock of Wisconsin Public Service Corporation, or all the common of Equitable Gas Company. The latter company, under a plan filed with the SEC sometime ago, is to acquire control of all of Philadelphia Company's gas properties. Decision as to which stock will be sold seems to depend largely on tax factors which are being studied. Proceeds will be used to retire senior securities of Philadelphia Company; if Wisconsin should be sold, the money will be passed along by Standard Gas to Philadelphia Company as an advance.

Standard Power & Light. No definite move has been made to liquidate the inactive top holding company, and this may await liquidation of Standard Gas & Electric. An analysis of the 1949 balance sheet indicates that the preferred stock could conceivably receive its entire claim (about $214 per share including the $10 call premium). The break-up value of the common stock seems, however, largely dependent on eventual participation of Standard Gas common in the distribution of assets of that company. Standard Gas common would appear to be amply priced around 6½ unless it receives more than nominal participation.

United Corporation on November 16th filed a comprehensive plan with the SEC to transform itself into an investment company. The company proposes to sell its interest in South Jersey Gas, its holdings of Niagara Mohawk class A, and also a part of the common stock of that company. (It has exchanged its Niagara Hudson for Niagara Mohawk.) With these sales effected it will no longer hold "statutory" control (10 per cent or over) of any utility company. However, to obviate any question of affiliation, the company proposes to escrow a substantial part of the remaining holdings of Niagara Mohawk, Columbia Gas, and United Gas Improvement, so as to reduce holdings (other than escrowed stock) to less than 5 per cent in each case. The escrowed stocks would be sold at some later date, when desirable for the purpose of facilitating continud payment of tax-free dividends on United Corporation stock.

It is also proposed to exchange the present United warrants for new ones on the basis of five old for one new. The new warrant will give the owner the right to purchase one share of United at any time within five years at $7 a share. (The old warrants had no time limit, but the option price was 27½.) The old warrants currently sell around ¼.

UNITED LIGHT & RAILWAYS. The final dissolution plan was approved by the SEC January 11th and trading was initiated in three of the four subsidiary company common stocks. (Trading in Kansas City Power & Light was deferred, since the stock will be registered with the SEC in connection with the offering of subscription rights to United Light stockholders at $12 a share.) After a pending stockholders' meeting of Continental Gas & Electric, the subholding company, the stock of St. Joseph Light & Power will be distributed to common stockholders of United Light; the subscription offering of Kansas City appears scheduled for March, and distribution of Iowa-Illinois Gas & Electric and Iowa Power & Light will probably be effected by June. United Light is currently selling around 41, reflecting about an average 6 per cent return based on anticipated dividend payments on the four subsidiary stocks. The new stocks (with the possible exception of St. Joseph) are considered high-grade equities so far as their balance sheet status is concerned.

West Penn Electric. The company has virtually completed its program to conform with the Holding Company Act, and now becomes one of the "integrated holding companies." Current interest in the stock centers around the question of possible increase in the $1.80 dividend rate—which seems a little questionable at a time when the system's operations are affected by the coal strike and the accompanying decline in industrial operations in its territory.

Correction—Public Power

In the February 2nd issue, page 176, in a discussion of public power, reference was made to an address by B. H. Greene, regional engineer of the Federal Power Commission in Chicago, in which he estimated that the Missouri valley would need some 9,700,000-kilowatt electric capacity by 1970. It was also indicated that Mr. Greene had stated that private power would not provide the needed increase in capacity. Our brief reference to Mr. Greene's talk was based on incomplete press reports. We now have the complete text of his address, and find that our statement was incorrect, since Mr. Greene gave no opinion or conclusion as to whether the valley's 1970 needs would be met by either public or private construction of generating capacity over the next twenty years.

Mr. Greene's statement was made in an address before the Missouri Basin Inter-Agency Committee meeting at Omaha last December. He compared over-all present plans with future requirements.

DIVIDEND-PAYING ELECTRIC UTILITY STOCKS

		2/8/50 Price About	Indicated Dividend Rate	Approx. Yield	Share Earnings Cur. Period	Share Earnings Prev. Period	Share Earnings % Increase	Price Earn. Ratio	% of Rev. Avail. For Com. Stock
Revenues $50,000,000 or over									
B	Boston Edison	47	$2.80	6.0%	$2.90d	$2.75	5%	16.2	11%
S	Cincinnati G. & E.	32	1.40	4.4	3.29s**	2.57**	28	9.7	13
S	Cleveland Elec. Illum.	45	2.40	5.3	2.77s**	2.48**	12	16.2	11
S	Commonwealth Edison	31	1.60	5.2	2.04s	1.73	18	15.2	10
S	Consol. Edison of N. Y.	30	1.60	5.3	2.22d	2.31	D4	13.5	7
C	Consol. Gas of Balt.	76	3.60	4.7	4.57d**	3.64**	26	16.6	8
S	Consumers Power	35	2.00	5.7	2.54d**	2.35**	8	13.8	13
S	Detroit Edison	23	1.20	5.2	1.71n**	1.36**	26	13.5	8
C	Duke Power	88	4.00	4.5	8.19s	6.04	36	10.7	12
S	Niagara Mohawk Power	23	1.40	6.1	1.94d	1.59	22	11.9	—
S	Northern States Power	12	.70	5.8	1.03d**	.78**	32	11.7	13
S	Ohio Edison	34	2.00	5.9	2.95d	2.82	5	11.5	14
S	Pacific G. & E.	33	2.00	6.1	2.02o	—	—	16.3	8
S	Penn Power & Light	24	1.20	5.0	2.13d**	1.78**	20	11.3	9
S	Philadelphia Elec.	25	1.20	4.8	1.72o**	1.49**	15	14.5	12
S	Pub. Serv. E. & G.	26	1.60	6.2	2.25d	1.90	18	11.6	8
S	So. Calif. Edison	35	2.00	5.7	2.94s	1.84	60	11.9	7
S	Virginia Elec. Power	20	1.20	6.0	1.74d*	1.45*	20	11.5	9
S	Wisconsin Elec. Power	22	1.20	5.5	2.05s**	1.44**	42	10.7	8
	Averages			5.4%				13.1	
Revenues $25–$50,000,000									
S	Carolina P. & L.	34	$2.00	5.9%	$3.36d**	$2.78**	21%	10.1	13%
O	Central Ill. P. S.	18	1.20	6.7	1.56s**	1.44**	8	11.5	15
O	Connecticut L. & P.	58	3.25	5.6	3.73n**	3.31**	13	15.5	12
S	Dayton P. & L.	34	2.00	5.9	2.67s**	1.99**	34	12.7	13
O	Florida P. & L.	22WD	1.20	5.5	2.15n	—	—	10.2	12
S	Houston L. & P.	48	2.20	4.6	3.98n**	3.22**	24	12.1	16
S	Illinois Power	39	2.20	5.6	3.09n**	2.75**	12	12.6	15
S	Louisville G. & E.	33	1.80	5.5	3.33s	2.66	25	9.9	12
O	New Orleans Pub. Ser.	36	2.25	6.3	3.16o	2.78	14	11.4	8
S	N. Y. State E. & G.	56	3.40	6.1	4.56d**	4.29**	6	12.3	8
O	Northern Ind. P. S.	21	1.20	5.7	2.17n**	1.69**	28	9.7	11
S	Potomac Elec. Power	16	.90	5.6	1.19s**	.96**	24	13.4	11
S	Pub. Serv. of Colo.	51	2.60	5.1	4.73d**	4.07**	16	10.8	14
S	Pub. Serv. of Ind.	28	1.60	5.7	2.46n**	2.19**	12	11.4	17
O	Puget Sound P. & L.	15	.80	5.3	1.58n	1.69	D7	9.5	11
O	Rochester G. & E.	34	2.24	6.6	2.26s**	2.42**	D7	15.0	7
	Averages			5.7%				11.8	

	(Continued)	2/8/50 Price About	Indicated Dividend Rate	Approx. Yield	Share Earnings Cur. Period	Share Earnings Prev. Period	% Increase	Price-Earn. Ratio	% of Rev. Avail. For Com. Stock
	Revenues $10–$25,000,000								
O	Atlantic City Elec.	20	$1.20	6.0%	$1.55d**	$1.45**	7%	12.9	12%
S	Birmingham Elec.	12	—	—	.61n	1.18	D48	19.7	4
O	Central Ariz. L. & P.	13	.80	6.2	1.22n**	1.14**	D7	10.7	13
S	Central Hudson G. & E.	10	.52	5.2	.65d	.53	23	15.4	6
O	Central Ill. E. & G.	23	1.30	5.7	2.20s	2.11	4	10.5	11
S	Central Illinois Lt.	38	2.20	5.8	3.01d	2.91	4	12.6	14
O	Central Maine Power	19	1.20	6.3	1.54d**	1.15**	34	12.3	15
S	Columbus & S. Ohio El.	22	1.40	6.4	2.48s	1.99	25	8.9	13
O	Connecticut Power	38	2.25	5.9	1.87je	2.34	D20	20.3	11
S	Delaware P. & L.	23	1.20	5.2	1.88s**	1.40**	34	12.2	12
S	Florida Power Corp.	19	1.20	6.3	1.52o**	—	—	12.5	11
S	Gulf States Util.	23	1.20	5.2	1.91d**	1.57**	22	12.0	17
C	Hartford Elec. Light	50	2.75	5.5	2.65je	—	—	18.9	14
S	Idaho Power	37	1.80	4.9	2.72d**	2.45**	11	13.6	19
S	Indianapolis P. & L.	30	1.60	5.3	3.16s**	3.01**	5	9.5	14
O	Interstate Power	9	.60	6.7	.84s**	—	—	10.7	13
O	Iowa Pub. Serv. New	21	1.20	5.7	2.25d	1.64	37	9.3	9
O	Kansas Gas & Electric	33	2.00	6.1	3.19d**	2.10**	52	10.3	12
O	Iowa-Illinois G. & E.	28WD	1.80Est.	6.4	2.71dEst.	—	—	10.3	25
O	Iowa Power & Light	23WD	1.40Est.	6.1	1.80Est.	—	—	12.8	14
S	Kansas Power & Light	18	1.00	5.6	1.56s	1.20	30	11.5	14
O	Kentucky Utilities	14	.80	5.7	1.49s**	1.17**	27	9.4	12
O	Minnesota P. & L.	31	2.20	7.1	3.91d	—	—	7.9	14
O	Montana Power	22WD	1.40	6.4	2.51n	2.27	11	8.8	25
C	Mountain States Power	34	2.50	7.4	3.61n**	4.01**	D10	9.4	12
O	Oklahoma G. & E.	41	2.50	6.1	3.57d**	3.26**	10	11.5	14
O	Portland Gen. Elec.	25	1.80	7.2	1.94n**	1.99**	D3	12.9	14
O	Pub. Ser. of N. H.	27	1.80	6.7	1.92n**	1.52**	26	14.1	12
O	San Diego G. & E.	14	.80	5.7	1.07n**	.83**	29	13.1	6
S	Scranton Elec.	15	1.00	6.7	1.13d	1.10	3	13.3	14
S	So. Carolina E. & G.	11	.60	5.5	1.39s	.87	60	7.9	10
O	Southwestern Pub. Serv.	34	2.20	6.5	2.75n**	2.44**	11	12.4	22
C	Tampa Electric	36	2.00	5.6	3.01d	2.02	49	12.0	12
O	United Illum.	45	2.25	5.0	2.60d	2.56	2	17.3	16
C	Utah Power & Light	25	1.60	6.4	2.29n**	2.24**	2	10.9	16
O	Western Mass. Cos.	33	2.00	6.1	2.64d	2.30	15	12.5	12
O	Wisconsin P. & L.	18	1.12	6.2	1.54s	1.35	14	11.7	11
	Averages			6.0%				12.2	
	Revenues $5–$10,000,000								
C	California Elec. Pr.	9	$ .60	6.7%	$ .89d**	$ .69	29%	10.1	10%
O	Calif. Oregon Power	26	1.60	6.2	2.12d**	1.94**	9	12.3	17
O	Central Vermont P. S.	9	.68	7.6	.72n	.34	112	12.5	6
C	Community Pub. Ser.	38	2.00	5.3	4.06s	3.90	4	9.4	12
O	El Paso Electric	36	2.00	5.6	3.43n	2.96	16	10.5	20
S	Empire Dist. Elec.	19	1.24	6.5	1.70s**	1.86**	D9	11.2	11
O	Gulf Public Service	12	.80	6.7	1.39n**	1.26**	10	8.6	13
O	Iowa Southern Util.	19	1.20	6.3	2.34n**	1.47**	59	8.1	8
O	Lawrence G. & E.	36	2.85	7.9	2.98s	—	—	12.1	9
O	Lynn G. & E.	88	5.00	5.7	5.02d	5.87	D14	17.5	16
O	Madison Gas & Elec.	28	1.60	5.7	1.56ag	—	—	17.9	12
O	Michigan Gas & Elec.	24	1.60	6.7	2.33s	1.96	19	10.3	9
O	Missouri Utilities	16	1.00	6.3	1.79d*	1.57*	14	8.9	12
O	Northwestern P. S.	11	.80	7.3	1.18s	1.29	D9	9.3	11
O	Otter Tail Power	20	1.50	7.5	1.94s	1.24	56	10.3	9
C	Penn Water & Power	37	2.00	5.4	4.81d	4.32	11	7.7	24
O	Public Ser. of New Mexico	19	1.00	5.3	1.51d	1.66	D9	12.6	14
O	Rockland L. & P.	10	.60	6.0	.64s	.60	6	15.6	12
O	St. Joseph Light & Pr.	26WD	1.50Est.	5.8	1.90dEst.	—	—	13.7	11
O	Southern Ind. G. & E.	23	1.50	6.5	2.15d**	2.10**	2	10.7	15
O	Tide Water Power	9	.60	6.7	1.00n	.85	18	9.0	7
O	Western Lt. & Tel.	28	2.00	7.1	2.33d**	2.10**	11	12.0	10
	Averages			6.4%				11.4	

(Continued)		2/8/50 Price About	Indicated Dividend Rate	Approx. Yield	Share Earnings Cur. Period	Share Earnings Prev. Period	Share Earnings % Increase	Price-Earn. Ratio	% of Rev. Avail. For Com. Stock
Revenues under $5,000,000									
O	Arizona Edison	20	$1.20	6.0%	$2.66s	$1.30	105%	7.5	8%
O	Arkansas Missouri P.	15	1.00	6.7	1.99s	2.07	D4	7.5	14
O	Bangor Hydro Elec.	26	1.60	6.2	2.50d	2.72	D8	10.4	15
O	Beverley G. & E.	38	2.75	7.2	2.03s	—	—	18.7	6
O	Black Hills P. & L.	18	1.20	6.7	1.96o	2.00	D2	9.2	13
O	Calif. Pacific Util.	30	2.40	8.0	3.41d	4.13	D17	8.8	9
O	Central Louisiana El.	31	1.80	5.8	3.90d	2.74	42	7.9	18
O	Central Ohio L. & P.	29	1.60	5.5	2.72s**	2.44**	11	10.7	10
O	Citizens Utilities	12	.70&Stk	5.8	1.81s**	1.46**	24	6.6	12
O	Colorado Central P.	30	1.80	6.0	2.58s**	2.07**	25	11.6	11
O	Concord Electric	37	2.40	6.5	2.17d	2.30	D6	17.1	11
O	Derby G. & E.	21	1.40	6.7	1.25d	1.47	D15	16.8	10
O	East Coast Electric	20	1.20	6.0	1.44je**	1.64**	D12	13.9	14
O	Fall River Elec. Lt.	52	3.60	6.9	3.55d	3.32	7	14.6	16
O	Fitchburg G. & E.	44	2.75	6.3	2.68d	2.85	D6	16.4	11
O	Frontier Power	5	.20	4.0	.84d	1.14	D26	6.0	10
O	Haverhill Elec.	29	2.55	8.8	1.87s#	—	—	—	10
O	Lake Superior Dist. P.	22	1.40	6.4	3.14n	—	—	7.1	5
O	Lowell Elec. Lt.	41	3.00	7.3	2.73je	—	—	15.0	9
C	Maine Public Service	14	1.00	7.1	1.44n**	.76**	89	9.7	9
O	Michigan Public Ser.	21	1.40	6.7	2.33s**	1.52**	53	9.0	8
O	Missouri Edison	8	.70	8.8	.91s	.94	D3	8.8	9
C	Missouri Public Ser.	35	2.00	5.7	4.40d	3.92	12	8.0	13
O	Newport Elec.	25	1.80	7.2	3.03n	2.54	19	8.3	11
O	Sierra Pac. Power	24	1.60	6.7	2.05d	2.20	D7	11.7	13
O	Southern Colo. Pr.	11	.70	6.4	1.26ag**	1.12**	13	8.7	14
O	Southwestern El. Ser.	12	.80	6.7	1.36ag	1.25	9	8.8	14
O	Tucson Gas, E. L. & P.	24	1.40	5.8	2.34d**	1.91**	23	10.3	16
	Averages			6.6%				10.7	
	Averages, five groups			6.1%				11.8	
Integrated Holding Companies									
S	American Gas & Elec.	54	$3.00	5.6%	$4.28n**	$3.82**	12%	12.6	—
O	Amer. P. & L. Reclassified	20WD	—	—	—	—	—	—	—
S	Central & South West	15	.90	6.0	1.33s**	1.20**	11	11.3	—
S	Middle South Util.	19	1.10	5.8	1.90ag	—	—	10.0	—
S	New England El. System	12	.80	6.7	1.13s**	—	—	10.6	—
O	New England G. & E.	15	.90	6.0	1.46d**	1.19**	23	10.3	—
S	Southern Co.	13	.80	6.2	1.19d**	.81**	47	10.9	—
O	Texas Utilities	23WD	1.28	5.6	2.10n	2.03	3	11.0	—
S	West Penn Elec.	26	1.80	6.9	3.40s	3.15	8	7.6	—
	Averages			6.1%				10.5	
Other Electric Holding Companies									
S	General Pub. Util.	17	$1.00	5.9%	$1.85sPF	—	—	9.2	—
S	North American	20	1.00	5.0	1.40sPF	—	—	14.3	—
C	Philadelphia Co.	20	1.00	5.0	1.04s	$.88	18%	19.2	—
O	West Penn Power	33	1.40	4.2	2.41s**	2.36**	2	13.7	—
Canadian Companies†									
C	Brazilian Trac. L. & P.	21	$2.00	9.5%	$3.85d	$3.69	4%	5.5	—
C	Gatineau Power	18	1.20	6.7	1.26d	1.63	D23	14.3	—
C	Quebec Power	17	1.00	5.9	1.14d	1.21	D6	14.9	—
C	Shawinigan Power	24	1.20	5.0	1.58d	1.63	D3	15.2	—
C	Winnipeg Electric	34	1.40	4.1	1.81d	1.96	D8	18.8	—

B—Boston Exchange. C—Curb Exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. E—Estimated. WD—When delivered. *Based on average number of shares outstanding. **Based on present number of shares outstanding. †While these stocks are listed on the Curb, Canadian prices are used. a—April. ag—August. d—December. f—February. j—January. m—March. my—May. je—June. ju—July. s—September. o—October. n—November. PF—*Pro forma*. #—Nine months ending September.

What Others Think

A House Committee Hears about the SWPA Contracts

DURING the last session of Congress, the Southwestern Power Administration was granted funds (in the Interior Appropriations Bill) which could be used for the construction of transmission lines. Although not in the body of the bill, this authority was accompanied by informal notice from members of Congress who would have otherwise opposed the measure. This admonition was to the effect that the officials of the Southwestern Power Administration would be expected to avoid use of the money to build the new lines, until they had made a genuine effort to come to an agreement with the private power companies in the area. Such an agreement would utilize the facilities of the companies rather than incur the expense of building duplicate lines.

A firsthand account of the activities of the Southwestern Power Administration, acting under this congressional directive, is found in the report on the hearings of the subcommittee (Interior) of the Committee on Appropriations recently held in Washington. In what amounted to rendering an account of his stewardship since the last transmission line appropriations, Douglas G. Wright, administrator of the Southwestern Power Administration, told the committee that he had successfully negotiated with the Public Service Company of Oklahoma and the Oklahoma Gas & Electric Company. And he had arrived at a tentative agreement which, in his estimation, was "about three times as good a contract" as that negotiated with Texas Power & Light in 1947. This was the "model" contract which was held up last year as a pattern for the Southwestern Power Administration. These contracts have since been presented to the Secretary of the Interior for approval.

WRIGHT, in a formal statement before the committee, outlined the provisions of the contracts and the prospects for reaching similar agreements with other utilities in the area. But an explanation of the working background is perhaps best revealed in the following excerpts from the administrator's answers to questions asked him by members of the House Subcommittee on Interior Appropriations. The subcommittee consisted of Representatives Michael Kirwan (Democrat, Ohio), chairman, W. F. Norrell (Democrat, Arkansas), Henry M. Jackson (Democrat, Washington), Ben F. Jensen (Republican, Iowa), and Ivor D. Fenton (Republican, Pennsylvania).

MR. JACKSON. Mr. Chairman, I have a few questions.

First, I would like to ask with reference to the contract—not having seen the contract, of course, it will be necessary just to ask some general questions. First, I take it that the contract makes provision for the wheeling of power.

MR. WRIGHT. No; it does not.

MR. JACKSON. It does not?

MR. WRIGHT. The companies said, as a basic premise of this arrangement, they will not wheel power. They will agree to deliver the government's power and energy, but ownership of the government's power and energy delivered to them changes at the point of delivery and ownership of their power and energy delivered to the government changes at the point of delivery.

MR. JACKSON. Title passes to the private company at the bus bar, then.

MR. WRIGHT. Or at their points of interconnection with our transmission system.

MR. JACKSON. Or wherever you turn it over to them, which I assume is at the bus bar in most cases.

MR. WRIGHT. No; I think it will be largely off of this main-line trunk line between the Denison and Norfork dams. We will have points of interconnection at Van Buren, Arkansas, at Weleetka, Oklahoma, at Brown, Oklahoma, at the Bull Shoals dam, at Springfield, Missouri.

MR. JACKSON. What do you mean by an interconnection at Bull Shoals dam?

MR. WRIGHT. That will be an interconnection off of our transmission system. When you say "bus bar," I assume you are talking about a dam itself. The Bull Shoals dam may not be generating at all. That power may be coming from Norfork.

MR. JACKSON. But they, in effect, will be delivering power for you over their own transmission lines through the device of passing title to it the moment they receive it and then passing it back to your customers?

MR. WRIGHT. Partly, Mr. Jackson. Undoubtedly that will happen to some of the power. But our power is immediately commingled with theirs, and there is no way in the world that you can stop that or any way in the world in our situation in the Southwest that it does not have to happen, because the minute we put a kilowatt into the Oklahoma companies' system nobody will know where that particular kilowatt goes. There is a lot of evidence that it will not go to many of our customers ever.

MR. JACKSON. But there is a distinction. I appreciate that, when it goes into their power lines, it is commingled, but any right the government may have to regulate will not exist in the case where title passes, where it would exist if they were in fact wheeling the power, or the title to the power still remained in the hands of the government. Is that not right? It creates a different legal relationship.

MR. WRIGHT. I think that is correct. In that connection we tried to cure that in this contract in this way: That the obligation of the government to deliver power to any company accrues only after the company has delivered power to the government.

MR. JACKSON. Let me ask this question, which I think goes to the heart of this thing: In your opinion, will the government be in just as favorable a position in connection with the sale and distribution of this power through the private utilities as if the government had built the lines?

MR. WRIGHT. I think you will have to add in the Southwest one other thing: As if the government had built the lines and their own fuel-burning generating plants.

Three-year Work-day Clause

MR. JACKSON. All of it together.

MR. WRIGHT. All of it. I think they will be in a more favorable position. That is my opinion. I would have a great deal of difficulty proving that; and, recognizing that I cannot prove it, I have provided that every three years—or we have provided—every three years the contracting parties analyze their cost as between each other and arrive at a satisfactory new basis of it, and that either party may, after the contract has had time to demonstrate its workability, cancel the contract on three years' notice, which is as quick. If the government finds out that this is not as favorable a way to do it, the government has the right to cancel it and go ahead and build its own lines and its own plants.

MR. JACKSON. Then you will be building duplicating lines, because the private companies will have already built their lines.

MR. WRIGHT. I do not see that that is changed from today. They say we are doing it today, too.

MR. JACKSON. In these new areas, generally speaking, you would not be building duplicating lines as a general principle. Is that not true?

MR. WRIGHT. In the case of the Southwest, I have told you repeatedly

I do not think there is any such thing as a duplicating line, because where it lays or how it lays, if a line carries an electric load, regardless if there are 50 other lines on the same pole, it does not duplicate a line. Now, that is the measure. So that the government would then presumably be in this position: There would be facilities to serve the customers which were the government's in the area of the contract which had been tried out, which were owned by the company, so the government would be in the position of either constructing new ones in the place of those or buying those, and I assume that, if you arrive at that conclusion, there would not be any objection to buying it.

MR. JACKSON. Would it not be better if the Federal Power Commission had the authority to determine at the end of the 3-year period whether or not the rates being charged and the arrangements made were fair and equitable?

MR. WRIGHT. The Federal Power Commission does have the authority under this contract.

MR. JACKSON. I know; but, as I understood it, when a difference arose at the end of a 3-year period, you submit the matter to arbitration.

MR. WRIGHT. No. That is not right. That difference relates as to whether or not an adequate service is being rendered to a coöperative. In other words, the coöperative says, "I am entitled to 120 volts, and I am not getting but 110." The question of finance as between the company and the government, which has no relation to the government's customer. The government's customer will never have any relation to the power company under this contract; the relationship will be entirely with the government. You will have no relationship with the company. But the rates as between the government and the company for this power, every three years, have to be redetermined as to their—

MR. JACKSON. That is, the rates being charged by Southwest to the private utility?

MR. WRIGHT. No; that is the rate being charged by Southwest to the private companies and the rates being charged by the private companies to Southwest.

MR. JACKSON. For carrying the power.

MR. WRIGHT. Well, they would not let you use that word "carrying."

MR. JACKSON. Well, for the service charge.

MR. WRIGHT. That is right.

Common Carrier Status Avoided

MR. JACKSON. There must be some big reason why they do not want to get in this field. Do you think it is in the public interest?

MR. WRIGHT. Sure. Common carrier.

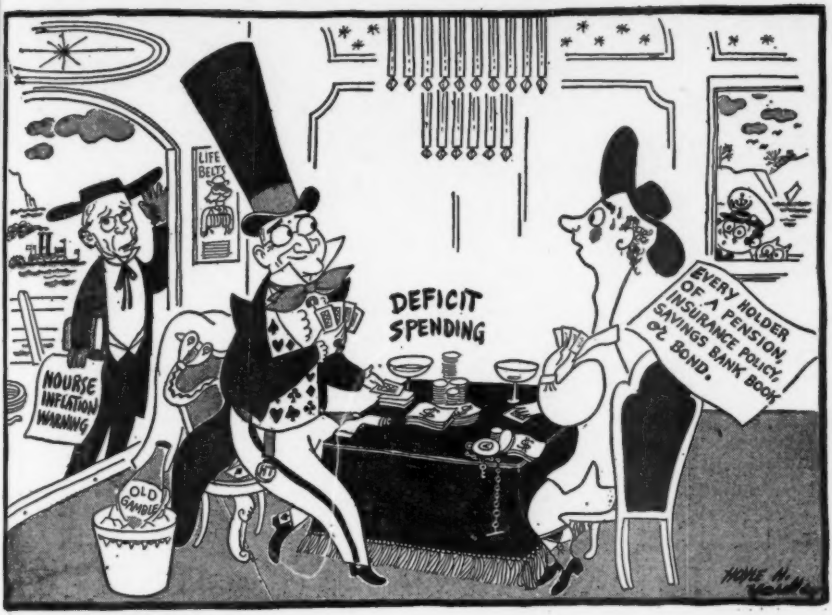
MR. JACKSON. I say, do you think it is in the public interest to avoid, by legal terminology, something which in effect really gets into the realm of the common carrier business?

MR. WRIGHT. I do not know that you could prove it gets into the realm of common carrier; but I think, if we do want to make a common carrier out of the private utility systems or other electric systems of this country, we ought to pass a law setting up that they are common carriers and the methods whereby the cost for common carrier service would have to be determined. I assume that would have a just regulatory body. Four years ago, before the Dondero committee testified, I thought that was one way of curing forever any question of duplicating facilities.

MR. JACKSON. On the other hand, if they want to engage in the common carrier business, they ought to be subject to the same regulation that any other business organization is subject to.

MR. WRIGHT. I agree with that.

MR. JACKSON. Let us get down to the heart of this thing. In fact, they are performing a service that normally would be the business of a common



Courtesy, The (Baltimore) Sun

A FAST GAME WITH THE MISSOURI "EXPERT"

carrier, but they do not want to get into that category. So, therefore, a contract is drawn whereby they take title to the power at the point where you deliver it to them, and they dispose of their ownership at the point where they deliver to one of your customers under the agreement.

MR. WRIGHT. It is not quite as clear-cut as that. You could have cases certainly in the country where it would be, and I think in other areas of the country it will be more clear-cut than it is in the Southwest, but what you have down there is something like this: You have a big group handling cabbage, we will say, and here is the government with a couple or three fields of cabbage, or 20 fields of cabbage, located over the Southwest, and they tell this fellow, "We will deliver all our cabbages to you, and we want to tell you where to deliver an equal number of cabbages to us." Nobody can prove, in my judgment, from minute to minute, that the same cabbage is being delivered in the same place or that any of your cabbages ever get to your customers.

MR. JACKSON. Well, you are getting into the legal question of commingling goods, but I do not think that there is any doubt that, when you are dealing with a certain type of commodity that cannot be identified, it would not relieve a business organization of possible regulation as a common carrier. I do not think that is the controlling factor. I am merely submitting that.

MR. WRIGHT. I am inclined to agree with you.

MR. JACKSON. In other words, if you follow the argument of the cabbage to its logical conclusion, it would result in a situation where a corporation engaged in the kind of business transactions where goods could not be identified would be free from common carrier control, but those organizations that were so unfortunate

as to deal in goods that could be identified would be subjected to control. Certainly that is not the test where the public interest is involved.

MR. WRIGHT. I agree with you, but I think the issue should be clearly faced that if you want to put this thing in a common carrier picture, then we ought not to do it by contractual relationship. We ought to do it by appropriate legislation.

MR. JACKSON. Should we avoid it by contractual arrangement?

MR. WRIGHT. I certainly am not trying to avoid any legislation by contractual relationship.

MR. JACKSON. I am just trying to get the facts here and see what they are. In other words, it could be wrong either way, could it not?

MR. WRIGHT. Yes, sir.

MR. JACKSON. I mean, if they are avoiding it through the contractual device, that is just as wrong as to try to bring it about through contractual device, if there is no legislative authority for it?

MR. WRIGHT. I agree with that.

Steam Plants Needed for Dams

MR. JACKSON. To repeat the question again: Do you feel that the government is in just as favorable a position now and in the years to come —because this is not a business that is on a year-to-year basis—under this arrangement as it would be if the government had built these transmission lines?

MR. WRIGHT. And steam plants. In the Southwest we have got to add steam plants. There is no question about that. I cannot use the dams constructed in the Southwest without steam plants, and if I can clearly discern what is going on in other power sections of the country, sooner or later none of them can use their dams without steam plants.

MR. JACKSON. We will modify the question first, then, and we will add: if the government had built the transmission lines and steam plants.

MR. WRIGHT. I consider that they would be in a more favorable position under this contractual arrangement for these reasons: (1) I consider that prior to the time the government built the dams, many people spent their money and built facilities in the power business, whether correctly or incorrectly, whether the service has been rendered at the proper price or the improper price, people did make power investments in the Southwest. Those people are part of the government of the United States.

In my judgment, if they are going to be taken out of the power business, there are only two fair ways to do it. One of them is to purchase their facilities and give them a fair recompense for the facilities that you purchase. The other one is to put them on a fair and equitable basis with any other power operation in the Southwest, which I believe this contract does, and I believe you will be in a more favorable position, because you have got something here that already exists, that has to be reckoned with, and if you built your own transmission lines and steam stations you would not reckon with that, and for a number of years at least, in my judgment, there would be an overlapping of interests and activities.

As a matter of fact, *I do not believe two people can stay in the power business in the same area with absolute competition instead of coöperation and integration, without one or the other of them being put out of the power business. I think it is a natural monopoly.*

UNDER questioning by Representative Norrell, Wright indicated his convictions concerning the adequacy of the contracts and the reaction of the Department of the Interior:

MR. NORRELL. You have executed those contracts with those two companies?

MR. WRIGHT. No, sir; we have not. We have sent the contracts to the De-

partment of the Interior with our favorable recommendation. We have gone into consultation with the staff of the Department of the Interior, during which they have pointed out to us certain very serious defects in the contractual arrangement proposed, which will require, in our judgment, further negotiations with the companies.

I have so advised the companies and have made arrangements with Mr. Lane to carry on the further negotiations. I feel that this contract which I have recommended, subject to these negotiations, forms a basis which I will continue to favorably recommend as a solution of the power distribution and marketing problems in Oklahoma.

MR. NORRELL. You say those points are considered to be important?

MR. WRIGHT. Yes, sir; I think they are important points, but I see no reason why they cannot be fixed.

MR. NORRELL. It looks now as though you will ultimately get together.

MR. WRIGHT. It looks to me like—and I suppose I should not say this—it looks to me like I am going to get something that solves all of the things between me and the staff of Interior as they have suggested it should be solved to the point where I can favorably recommend this contract.

I cannot, of course, predict what the Secretary may do in his approval or disapproval of it. I am a soldier. If he disapproves it, the thing has to be ended as far as I am concerned if I continue to work for the department. If I do not I can quit and do what I please.

Notes on Recent Publications

THE STABILIZATION OF INVESTMENT IN TWO PUBLIC UTILITY INDUSTRIES. David Gordon Tyndall, assistant professor of economics, Carnegie Institute of Technology. Professor Tyndall suggests that since the investment in public utilities is a significant portion of total economic investment in the country, any move to stabilize the utility investment would go a long way toward stabilizing the economy of the country and insure it against radical cyclical change as experienced in the last depression. The article proposes that the instability of investment in the utility field would be eliminated if investment by the utilities were geared to long-range projections of demand on the assumption of full employment rather than year-to-year fluctuations. In order to implement this, in times of depression, it is further suggested that the utilities should be allowed to include these new investments in their rate base, even though the capacity exceeds demand and, if necessary, include depreciation on these investments as allowable costs. In developing the thesis of the paper, Professor Tyndall has included and comments on letters received from various state and Federal commissions which were solicited to comment on the subject of stabilizing the utility investment. The two utility industries studied are the electric power and the telephone industry. THE STABILIZATION OF INVESTMENT IN TWO PUBLIC UTILITY INDUSTRIES. *Land Economics*. November, 1949. The University of Wisconsin Press, Madison, Wisconsin. Price $1.50 a copy.

COMMONWEALTH SERVICES, INC., has recently published an attractive 16-page booklet setting out the functions and personnel makeup of the newly formed organization. This service organization, formerly The Commonwealth & Southern Corporation of New York, is now established as an independent company with offices in New York and Jackson, Michigan. It is owned by its officers and employees and is free to extend its services beyond the former Commonwealth & Southern group, to companies in the public utility, industrial, and other fields.

The booklet, liberally illustrated with pictures of the firm's staff, describes the consulting functions of the organization in the fields of financing, accounting, taxes, insurance, pension and welfare programs, rate research, and engineering. Commonwealth Services, Inc., 20 Pine street, New York 5, New York.

STEAM POWER PLANTS. Both a textbook for young engineering students and a ready reference for engineers in industry is found in this recently published volume written by Philip J. Potter, of the University of North Dakota. The author, drawing on his experience, has presented an exhaustive study of steam power plants—large and small training in typical plant layout problems is afforded, with the inclusion of problem assignments which would be helpful not only to students but engineers on the job. STEAM POWER PLANTS. Ronald Press Company. Price $6.50. 497 pages.

The March of Events

In General

EEI Charges Loss to TVA

THE Tennessee Valley Authority's operations since 1933 have resulted in a "total loss of $119,579,000," according to an analysis of the 7-state, $846,000,000 project, distributed last month by the Edison Electric Institute. For the fiscal year ended June 30, 1949, the loss was said to be $6,218,000.

Including additional financing costs, the EEI said, the "U. S. taxpayers have made a gift to the Tennessee valley of some $144,000,000."

The TVA's report for the fiscal year ended with last June showed that revenue from power sales for the period were $58,000,000, or $9,000,000 more than in the previous year. The report, which was published on December 29, 1949, also said that net operating revenue was about $21,500,000, and that there was a return of 5 per cent on the net average power investment, compared with an average annual return of 4.7 per cent in the preceding five years.

On the profit issue, the EEI's analysis said that the TVA's reports "always emphasize two things: the profits which its electric operations show under TVA method of keeping books, and the benefits of its other activities."

FPC to Require Competitive Bids

THE Federal Power Commission has announced that it plans to amend its rules to require competitive bidding on issues of securities subject to its jurisdiction. The new regulation, the commission said, would embody the bidding practice developed by the Securities and Exchange Commission.

The new rules will require, with certain exceptions, that the applicant publicly invite sealed bids at least six days before entering into any contract or agreement for the security issue.

After bids have been opened, the applicant would be required to file an amendment with the FPC describing what he had done to comply with the competitive bid requirement, summarizing terms of the bids received and setting forth the action the applicant plans to take.

The new regulation in general will broaden the commission's present competitive bidding rule to apply to negotiated, as well as to underwritten, issues.

GE to Launch Traveling Power Exhibit

THE "More Power to America Special," first train of its kind in industrial history, will be launched on a nationwide tour this spring by General Electric's apparatus department.

Nine cars in length, the train will visit the country's key industrial centers, bearing exhibits of more than 2,000 electrical products, processes, and techniques for inspection by utility and industrial executives and municipal leaders.

Describing the train as a "mammoth showcase on wheels," GE executives say that the exhibits will dramatize the latest apparatus and ideas for producing and using electric power most efficiently.

New Air Coach Flights

NATIONAL AIRLINES has inaugurated two additional club coach flights between New York city and Miami, Florida, with stops in Washington. It is

the first air-line "club coach"—at rates of about four cents a mile—ever made available on the North-South route out of the nation's capital. The new service brings to four the number of low-cost club coach flights National offers along the eastern seaboard. Club coach fares will be $8.60 between Washington and New York, compared to the standard fare of $13.40, while the fare between Washington and Miami will be $38.80 compared to the regular fare of $62.30.

Connecticut

Samuel Ferguson Passes

SAMUEL FERGUSON, board chairman of the Hartford Electric Light and Connecticut Light & Power companies, died suddenly the morning of February 10th at Mountain Lake Club, Florida, where he had been vacationing. Mr. Ferguson was seventy-five years of age.

Nationally recognized as an outstanding figure in the electric power industry, Mr. Ferguson was once cited by *Fortune* magazine as "perhaps the most progressive independent in the utility industry." He was also a director of several other organizations and prominent in the affairs of St. John's Episcopal Church, Hartford.

During his long and active career in the utility industry, Mr. Ferguson made many contributions to the scientific, economic, and marketing phases of the business. Under his leadership, the Hartford Company was the first in the United States to use aluminum power lines, and, a few years later, the first company to use the mercury boiler.

Georgia

Allatoona Dam in Production

ALLATOONA dam on the Etowah river, multipurpose project built by the Army Engineers, recently went into production with a 36,000-kilowatt unit on the line.

A second unit of the same size is scheduled to go into production early in April, while provision has been made for a third 36,000-kilowatt unit when needed. Georgia Power Company contracted with the Interior Department for the entire output of the $33,000,000 project at the bus bar, and will wheel power to preferred customers of the government, or make exchanges at suitable points in the company's grid, which extends over the entire state.

Kentucky

Would Authorize Rural Telephone Coöperatives

A BILL to authorize establishment of rural telephone coöperatives to take advantage of Rural Electrification Administration loans in building rural telephone facilities has been introduced in the state senate.

Under terms of the measure, the coöperatives would be tax-exempt, except for an annual fee of $10, while the public service commission would have full supervisory powers over rates, services, and other functions of the coöperatives.

Would Form Telephone Co-op

RESIDENTS of West Liberty have named a committee of four to head a drive for the organization of a telephone coöperative and apply to the Rural Electrification Administration for necessary funds. The proposed venture, first in Kentucky, would operate in Morgan, Wolfe, Breathitt, and Magoffin counties.

Maryland

Would Ban Utility Strikes

DISRUPTION of public utility services in Maryland by labor disputes would be outlawed under terms of legislation now before the Free state's general assembly.

The measure would declare it to be the state's policy that work stoppages leading to "substantial impairment" of the operation of a utility are not to be condoned, and that operation of utilities furnishing water, light, heat, gas, electric power, transportation, and communication to Maryland residents is "essential to their welfare, health, and safety."

A 5-week cooling-off period after negotiations between management and labor have failed would be required by the measure. During that period, the governor would ask that the dispute be submitted to arbitration. If that should be rejected, and the Chief Executive determined a strike would endanger "public health, safety, or welfare," he would order the plant seized at the end of the fifth week.

In the event the state is compelled to seize a utility, the bill provides for hiring either plant employees, or, if they refuse to work for the state, outsiders, and for reimbursing the state for its expenses. The state also would receive 15 per cent of net profits during the seizure period.

Massachusetts

Telephone Rate Increase Upheld

THE full bench of the Massachusetts Supreme Court has ruled that the New England Telephone & Telegraph Company may continue the so-called $15,000,000 increased rates—or 15 per cent—now charged in its bills to Massachusetts customers.

This ruling upheld a decision of Judge Raymond S. Wilkins of the high court who as a trial judge dismissed a petition of the state department of public utilities to compel the telephone company to cease charging the 15 per cent rates and to charge only a 9 per cent increase.

Judge Wilkins, in his decision, "rightly ruled the company is now properly charging the $15,000,000 rates and rightly dismissed the petition," the supreme court said in its decision.

Nebraska

Commission Raps Excise Taxes

THE state railway commission has urged repeal of the Federal excise tax on transportation and communication services. Pointing out that these taxes are calculated on a percentage basis rather than on a flat basis, the commission said increases in transportation and communication rates since the end of the war have greatly increased the amount of the tax on the named services.

"The tax as applied to rural and exchange services is grossly unfair and inequitable and has become more burdensome," the commission declared in a resolution setting out the commission's views and forwarded to Nebraskans in Congress and to the National Association of Railroad and Utilities Commissioners.

Heads Public Power System

C. F. TERRELL, of Seattle, Washington, operating vice president of the Puget Sound Power & Light Company, has been named to the newly created post of executive director of the Nebraska Public Power System.

He is a graduate of the School of Electrical Engineering, University of Washington, and a member of the American Institute of Electrical Engineers.

New Hampshire

Co-op May Own Private Utility Stock

THE New Hampshire Supreme Court in a recent 3-to-2 decision held that ownership of the capital stock of a private utility by a coöperative is constitutional. Minority opinion saw the court's decision as an opening wedge which might "pave the way" for state or "more likely" Federal control of private utilities.

The decision, written by Justice Duncan, held that a coöperative could, under the state's laws, purchase the securities of a private utility, but whether such a purchase was in the interest of the public "good" was a matter for the state public service commission to decide.

The court ruling was the result of a question raised when the New Hampshire Electric Coöperative, serving the northern portion of the state and now in receivership to the Rural Electrification Administration, proposed to borrow $1,350,000 from REA to go toward the purchase of the capital stock of the White Mountain Power Company.

Justice Duncan, in his majority opinion, wrote that the state's laws give power to a coöperative to "purchase, or otherwise acquire, to exercise all rights of ownership or control in, and to sell, transfer, or pledge, shares of the capital stock or bonds of any corporation or association engaged in any related activity . . ."

The opinion pointed out, however, that the legislature has seen fit to limit coöperatives from giving service to large numbers of nonmembers. The coöperatives are also nonprofit organizations under state law, but the majority opinion said that this did not mean that a coöperative could not invest its assets in profit-bearing stocks.

In the dissenting opinion, Justice Blandin wrote that he did not think it was the intent of the legislature to permit a coöperative, subsidized by the Federal government, to own a private utility.

New York

City Transit Revenues Down

NEW YORK city's municipally owned transit system suffered a $1,468,000 loss during the second half of 1949, compared with an operating profit of $7,016,000 in the last six months of 1948.

The downward swing, amounting to $8,484,000, has dimmed hopes of the board of transportation for an even break between revenues and expenses in 1949-1950, and leaves little chance for any operating profit in the fiscal year ending next June 30th.

Chief reason for the sharp decline in revenues has been an unforeseen drop of 4.9 per cent in the number of passengers using subways and elevated lines in the last six months of 1949, compared with the same period in 1948.

Pennsylvania

Duquesne Asks Rate Boosts

THE Duquesne Light Company, of Pittsburgh, has asked the state public utility commission for permission to raise electric service rates to its commercial, industrial, and residential consumers. The new schedules, to become effective April 10th, would bring the company $7,697,000 in additional annual revenue —$3,164,000 from residential customers and $4,533,000 from commercial and industrial customers.

President Pressly H. McCance explained that the general increase, first in the company's history, is necessary because the company is not earning a fair return on its investment. Last year, Mr.

McCance said, the company earned 4.31 per cent on the fair value of its property —$293,366,216. The new rates would bring a return of 5.1 per cent, although the company considers 6 per cent a fair return.

South Carolina

SCE&G 1950 Program

S. C. McMeekin, president of the South Carolina Electric & Gas Company, has announced a 1950 construction program totaling $3,458,416, an increase of $1,069,431 over like expenditures in 1949. In anouncing the program, Mr. McMeekin said the company's construction and expansion plans are gauged to meet the increased industrial, commercial, residential, and farm needs for power with an adequate margin of reserve capacity. Included in the expansion program is an allocation of $360,465 for the Columbia gas plant and gas distribution facilities, and $186,000 for 12 new 36-passenger busses for the Columbia city bus system.

South Dakota

State Power Authority Rejected

Without a record vote, South Dakota has rejected the administration's state power authority bill, proposed by Governor George T. Mickelson. The rejection was so overwhelming that a roll call vote was not taken.

The authority measure was designed to create a coördinating and wholesaling agency for negotiation for public power from Missouri river dams.

Virginia

Formation of Rural Phone Co-ops Proposed

Two bills are pending before the house of delegates to permit the formation of rural telephone coöperatives in the Old Dominion. The two measures—one before the upper house, one before the lower—are almost identical and would permit the formation of telephone coöperatives in rural areas along lines similar to the electric power coöperatives now in operation.

Wyoming

Commission Raps Utility Excises

Wyoming's public service commission has gone on record in favor of the repeal of Federal excise taxes on transportation and communication services.

A resolution, signed by all three of the commissioners, declared that the present taxes on transportation and communication services are "inimical to the maintenance of sound reasonably priced and nondiscriminatory public transportation and communication services" and should be repealed.

A copy of the resolution was forwarded to Walter R. McDonald, Washington, D. C., general solicitor of the National Association of Railroad and Utilities Commissioners for presentation to the House Committee on Ways and Means, currently studying the entire Federal tax structure.

Progress of Regulation

Partial Use of Electric Lines for Local Distribution Does Not Exempt Company from Federal Regulation

THE Florida Public Utilities Company, according to a decision of the Federal Power Commission, is a "public utility" subject to regulation under the Federal Power Act. This company buys electricity from Gulf Power Company. Interstate power is received in Florida and distributed to the company's customers, including West Florida Electric Coöperative Association.

The coöperative resells electricity to its members exclusively in the state of Florida. The company conceded that its sale to the coöperative is a sale at wholesale in interstate commerce in the constitutional sense but argued that the sale is not subject to the commission's jurisdiction under the Federal Power Act since it is essentially local distribution. It asserted that there is not a single element of interstate commerce if the extra-state origin of the electric energy be disregarded. That may be so, said the commission, but it obviously does not follow that the extra-state origin of electric energy is immaterial in determining the jurisdiction of the commission.

What does determine jurisdiction, the commission continued, is the use made of facilities involved. The company purchases electric energy transmitted from Alabama and delivers it in Florida, which energy constitutes a varying but major part of all the energy transmitted and sold by the company. Some of the out-of-state electricity is transmitted in bulk without interruption to points of sale to the coöperative for resale.

Such transmission, said the commission, is transmission in interstate commerce under the act and under judicial decisions leading to and after its enactment. Therefore, it is beyond the constitutional power of the states to regulate and is thus precisely the sort of sale which Congress intended to regulate by the Federal Power Act.

Necessarily comprehended as "facilities" used for such transmission and sale, therefore, are the principal power lines owned and operated by the company between its substation where it receives power and the points of interconnection with the coöperative. Moreover, the provision for exemption of facilities used for local distribution does not exempt lines used exclusively for interstate transmission or lines used partially for interstate transmission at wholesale.

The company argued that there was no logical basis for giving these lines the dual character of distribution and transmission facilities. The commission said:

> Significantly, applicant does not affirmatively contend that the lines are used in *local* distribution, the language of § 201(b). But overlooking this and assuming without deciding that these lines are also partially "used in local distribution," it does not follow that § 201(b) may be so read as to accord them total exemption. In the case of such dual use—that is, where a facility is used to transmit or sell some electric energy at wholesale in interstate commerce under the act, and also is used

in local distribution of other energy, whether or not moving interstate—the facility is subject to our jurisdiction to the extent of the former use and is sufficient to support a finding of "public utility" status, but not so as to the latter use. To hold otherwise would create a means for nullification of the act since facilities now serving only jurisdictional purposes could be made nonjurisdictional through the mere expedient of devoting them in part, no matter how small, to a use within one of § 201(b)'s prohibitions. And companies now "public utilities" could, by such expedient, terminate their status and escape regulation of activities which are beyond the constitutional power of the states to control.

Re Florida Public Utilities Co. (Opinion No. 189, Docket No. E-6136).

Information As to Gambling Provides Basis for Phone Removal

THE California commission dismissed a barber's complaint against a telephone company's discontinuance of service for gambling after reasonable cause for the company's action was demonstrated. The commission considered a letter from the special crime study commission notifying the company of illegal activities, the general reputation of the shop, and the knowledge of financial transactions between the subscriber and a "book-making clearing house" as providing reasonable ground for service discontinuance. *Millstone v. Pacific Teleph. & Teleg. Co. (Case Nos. 5023, 5024).*

Electric Rates Based upon Present Fair Value

THE Michigan commission authorized the Consumers Power Company to file higher rates which would yield a return of 5.7 per cent. The commission believed that the new rates would provide ample revenues to enable the company to meet its immediate expansion needs and to improve its capital structure by the sale of equity or common stock.

Present fair value was adopted as the rate base despite the contention of the commission's staff that the commission was committed to the doctrine of original cost or prudent investment. The commission believed that the so-called Electric Transmission Act, as well as court decisions, required it to use fair value. It did observe that the original cost theory commended itself by sheer simplicity of administration, but felt that during inflationary periods that theory assumed alarming aspects and might equally prove to be alarming during a period of deflation.

Adoption of the fair value basis was not to be taken as discarding the soundness of original cost for accounting purposes, however, the commission said. Nor was it discarding original cost as a very important and vital element to be considered in determining the ultimate question of the fair value of the company's property.

Determination of fair value was said to be a matter of judgment. In fixing the present fair value the commission considered original cost, reproduction cost new, depreciation, and value of the service as exemplified by a comparison of rates with other electric utilities throughout the nation.

The commission pointed out that it was considering this question at a time in the economic history of this country when we are experiencing the most violent inflationary period of our national life. It said that "it is incredible that fair value measured in 1949 dollars is not in excess of the original cost" of property built or acquired over the last thirty-five years.

Chairman McCarthy, in the dissenting opinion, said that fair value is what has been variously denominated as original cost, prudent investment, or, more recently, net investment. He believed that fair value is that value which is fair to the investor as representative of the dollars he has placed into the public utility enterprise. The investor, he said, is entitled to a reasonable earning upon that dollar investment, which should not be unreasonably subjected to the vagaries of economic cycles. *Re Consumers Power Co. (D-2916-50.1, D-2916-50.3).*

Equalization of Interstate and Intrastate Rates Approved

THE New Jersey Board of Public Utility Commissioners authorized increased railroad passenger fares similar to interstate rate increases allowed by the Interstate Commerce Commission. The decision was based upon the fact that the need of the carriers for added revenue was clearly established in the record made before the Interstate Commerce Commission. That body found that increased fares were necessary to enable the carriers to provide adequate and efficient service.

The board pointed out that if it had decided to suspend the proposed intrastate tariffs and had fixed fares lower than those authorized by the Interstate Commerce Commission, that commission could, nevertheless, in an appropriate proceeding and on a supporting record, have required the carriers to raise the lower intrastate rates to the level of the higher interstate fares. As a matter of fact, such action was taken by the Interstate Commerce Commission with respect to the lower statutory rates in effect in Illinois and Michigan. The Interstate Commerce Commission is not only the final administrative arbiter as to interstate fares, but also as to related intrastate rates, as well, the board said.

Although it did authorize the increased intrastate rates, the board was concerned that they might result in a substantial diversion of passengers to other modes of transportation. Records indicated that the frequently increased rates were approaching the point where they would "outprice the market" and would produce little, if any, increased revenue. Therefore, it urged the carriers to make a serious study of ways and means to increase noncommutation riding. It also urged the Interstate Commerce Commission to initiate a general investigation of the entire question of railroad and motor carrier passenger fares in the New Jersey-New York area and to make further separation studies as to costs as between freight and passenger service, and as between interstate and intrastate service. *Re Increases in New Jersey Intrastate Basic Railroad Passenger Fares (Docket No. 4873).*

Florida Commission Assumes Jurisdiction over Gas Rate Appeal And Rejects Reproduction Cost

THE Florida commission entertained an appeal from a city order fixing gas rates although it does not ordinarily have jurisdiction over these rates. It found that it had special statutory jurisdiction to hear and determine appeals from rate orders of the city commission of the city of Jacksonville under a 1921 law.

Reproduction cost evidence was rejected as being entitled to no consideration in a rate case. The commission held that such evidence was inherently fallacious and necessarily permeated with inaccuracies. It also said that regulatory bodies are free, within the scope of their statutory authority, to fix public utility rates without regard to the fair value formula. The statute by which it is governed merely requires that gas rates shall be

just, reasonable, compensatory, and adequate.

The commission believed that a rate base predicated upon net average investment ascertained from original cost of the company's property, less accrued depreciation, was fair to the utility, its investors, and consumers. It decided that an investment rate base would give recognition to every dollar invested in the business affected with a public interest.

Such a rate base, it said, protects the subscribers against unreasonably high rates that might be fixed during a period of abnormally high prices, and at the same time protects the investors against unreasonably low rates that might be fixed during abnormally low prices, either of which might result if the rate base were developed through the use of the reproduction cost new formula.

In determining the rate of return, essential factors to be considered are general economic conditions, the necessity and ability of the company to attract capital, the current cost of money, the financial history of the company, the risk involved, comparisons with other enterprises of a similar nature, and efficiency of management. It was pointed out, however, that when investing in a business dedicated to public service, one must recognize that as compared with investment in private business, he cannot expect either high or speculative dividends, but that his obligation limits him to only a fair and reasonable profit.

The commission concluded that a rate increase yielding a return of 7 per cent would be adequate to attract capital and would yield sufficient revenues to pay operating expenses, depreciation, taxes, interest on borrowed capital, and reasonable dividends, with an adequate balance for surplus.

Evidence in this case showed that the company did not have a monopoly but was in direct competition with not only a city-owned and -operated electric light plant, but also with butane gas dealers and with kerosene and oil for heating purposes. The commission also recognized that the company was faced with the possibility that natural gas would be piped into the locality served by it. For this reason the company's business was attended by considerably more financial risk than many other forms of utilities.

Although the commission recognized that working capital is an element of value to be considered in arriving at a proper rate base, it made no allowance for it in this case. It found that the average customer's deposits which were available to the company exceeded the company's working capital requirements and obviated the necessity of including an allowance in the rate base. *Jacksonville Gas Co. v. Jacksonville (Order No. 1571, Docket No. 1641).*

State's Authority over Motor Carrier Routes Paramount

THE supreme court of Wisconsin sustained a motor carrier's appeal from a lower court order dismissing its action against a municipality which had attempted to enforce a local law changing bus routes through the city.

The court ruled that the statutory provision requiring motor carriers to comply with the local ordinances of cities through which they pass was subordinate to the power of the state commission to designate the routes to be used by intrastate motor carriers. *Safe Way Motor Coach Co. v. Two Rivers, 39 NW2d 847.*

Commodity Rate for Raw Materials Disallowed

THE Massachusetts Department of Public Utilities denied an intercity motor carrier of merchandise authority to adopt a reduced commodity rate for

materials used in the manufacture of boots and shoes. The department commented on the inadequacy of evidence which reflected the interstate and intrastate operations of the company without any apportionment of revenues and expenses to the particular operation under consideration.

The evidence also failed to establish that there was a great volume of traffic involved or that a competitive carrier rate had to be met. The fact that a commodity rate already existed for finished boots and shoes did not require that such a rate be established for raw materials. *Re Inter-City Transp. Co. (DPU 8783).*

Commission Refuses to Act As Arbitrator in Trolley-City Dispute

THE Wisconsin commission denied a municipality's request that it assume jurisdiction and act as arbitrator in matters regarding city license fees for the operation of a local transit company, notwithstanding the fact that both disputants desired it to do so.

The city had collected an annual unit base license fee from the transportation company. When the ordinance under which these fees were collected expired, the city requested the transportation company to approve a new ordinance providing for a license fee approximately three times higher per unit. It was at this point that commission arbitration was sought.

The commission pointed out that as a regulatory body it had no authority to act in the matter since no statute either expressly or by implication conferred on it powers of arbitration. As individuals, the commission continued, its members were specifically prohibited from pursuing any other business and were required to devote their entire time to the duties of their office. In the light of these facts the commission terminated the proceeding by declining for itself as a state agency and for its members as individuals to assume jurisdiction over the dispute. *Milwaukee v. Milwaukee Electric Railway & Transport Co. (2-SR-2098—2-SR-2101).*

Fuel Clause Permitted in Interruptible Natural Gas Rate but Denied for General Service

THE California commission approved the application of a statewide gas and electric company for an increase in rates for natural gas service where net earnings had fallen below the fair return level.

The reasons which were assigned by the company for the change in its position were increased capital and operating costs including salaries and wages, the decline in gas availability from local fields, higher maintenance expenditures, and extraordinarily large capital expenditures.

No increase in the company's allowance for materials and supplies was authorized by the commission, notwithstanding the sharp rise in price levels since the removal of Federal price controls and the expanded use of supplies by the company. These factors, the commission observed, are offset by a lesser need to maintain large stocks as a protection against material shortages and slow delivery.

The commission approved the adoption of a fuel clause and cited the flexibility which such an escalator provision gives to a utility rate as the principal reason for its acceptance. A fuel clause renders unnecessary repeated proceedings for rate adjustments, maintains gas prices at levels competitive with other fuels, and promotes slack season use. The commission insisted that the fuel clause be based on the lowest of the prices posted

by any major oil company rather than the posted price of a named refinery.

The commission barred the fuel clause's incorporation in the general service rate and limited it to the rate for interruptible natural gas service. General service rates, the commission commented, are established at a level sufficiently high to provide a reasonable margin of safety to the utility against fluctuation in the cost of fuel.

A claim by the Federal government for a rate for service to Navy yards, Army, and Air Corps bases lower than that received by other customers was rejected. A government study in which higher average use, deliveries at high pressure from transmission mains, reduced billing and collection expenses were cited as reasons for granting preference, was not considered realistic. The commission, however, established a new lower block rate to give appropriate recognition to this type of service.

The over-all rates approved by the commission would allow the company a return of 5.9 per cent on its gas department rate base, which would provide earnings sufficient to enable the utility to service not only its outstanding securities, but also those necessary to finance a reasonable expansion program. *Re Pacific Gas & E. Co. (Application No. 29777, Decision 43368).*

Return of Telephone Company Based on Net Investment

THE Nebraska commission authorized an increase in telephone rates to provide a return of 6 per cent on an adjusted net investment rate base. A return of 7.49 per cent was considered more than sufficient to yield a reasonable rate of return upon the fair value of the property used and useful.

Evidence was submitted as to reproduction cost, reproduction cost in 1941 plus net additions, cost of plant and equipment, cost of plant and equipment less observed depreciation, and cost of plant and equipment less reserve for depreciation. The latter figure, with an allowance for materials and supplies and working capital, was used.

The working capital claim was reduced to an amount based on capitalizing one-twelfth of estimated annual operating expenses. *Re Lincoln Teleph. & Teleg. Co. (Application No. 17832).*

Transmission Line Authorized Subject to Condition

THE Arkansas commission authorized the Southwestern Gas & Electric Company to construct certain transmission lines, one of which was for the purpose of absorbing into the company's system the power and energy to be generated at the Narrows dam, presently under construction by the U. S. Engineers. The dam is to be completed in the spring of 1950.

The Southwestern Power Administration, an agency of the Department of Interior, has been designated as the marketing agent for such power and energy as will be available. Negotiations for delivery of this power to the company were, at the time of the commission's decision, under way. The commission considered the proposal feasible, but since the contract for power had not been signed, it imposed a condition to forestall the company from placing into its rate base facilities which would not be used or useful.

The commission believed that the certificate authorizing construction of the line to the dam should be conditioned upon the agreement of the company that the cost of such facilities will not be placed in its rate base until their use for the absorption of the Narrows dam power, or for some other equally feasible use, is effectuated. *Re Southwestern Gas & Electric Co. (Docket Nos. U-407, U-408).*

State Censorship of Television Films Declared Invalid

THE United States District Court for the Eastern District of Pennsylvania awarded judgment to certain television broadcasting companies in their attack on a regulation of the Pennsylvania Board of Censors requiring submission of motion picture films for censorship purposes.

The court found merit in the companies' contention that the entire broadcasting field had been occupied by Congress by the Radio Act of 1927 and the Communications Act of 1934 so as to preclude action by the state.

The fact that Congress did not provide for censorship of radio communication or signals did not mean that the field of censorship had been left untouched and free for regulation by the states. Congress, the court said, had definitely concerned itself with possible misuse of broadcasting facilities, had dealt with the problem fully without providing for censorship because of a consciousness of the danger of a whittling away of the constitutional guaranties of freedom of speech and press, which is always present when censorship is established. *Du Mont (Allen B.) Laboratories, Inc. et al. v. Carroll, 86 F Supp 813.*

Discontinuance of Unlimited Interexchange Service Rejected

THE Wisconsin commission denied a telephone company's application for authority to discontinue unlimited interexchange service between one community and several others where it appeared that there was a community of interest.

The commission did not consider discriminatory the fact that customers on certain lines were receiving unlimited service while customers on other lines in the same area were paying a toll charge on similar calls, where the historical background justified the situation.

When the evidence indicated that approximately 50 per cent of the customers in the area made use of the unlimited interexchange service, the commission concluded that its continuance was warranted. *Re Commonwealth Teleph. Co. (2-U-3177).*

Other Important Rulings

A BUS company was authorized to eliminate the sale of tokens but was required to keep its present 10-cent cash fare, in addition to a weekly pass, the commission saying that regardless of any contention that the public would support cash fares as high as 15 cents before a point of diminishing returns is reached, evidence in support of the theory was of doubtful validity. *Re Rochester Transit Corp. (Case 14244).*

In authorizing intrastate railroads to increase rates to the level authorized by the Interstate Commerce Commission for their out-of-state operations, the Missouri commission cautioned the companies that the burden of proof is not satisfied in a utility rate proceeding merely by a showing of revenue requirements. *Re Freight Rates and Charges (Case No. 11,533).*

The New York commission held that a telephone company must be allowed a standard of earnings which will make investment in its common stock attractive to the present-day investor, where funds needed to finance a necessary construction program must be obtained through the sale of common stock. A return of 5.14 per cent was held not to be excessive. *Re Rochester Teleph. Corp. (Case 13489).*

The Colorado commission denied a

motor carrier's application for a certificate to haul trash in several cities within the state where the carrier had no permit or license from local authorities to operate within the municipalities and the record indicated that existing trash-hauling service was adequate. *Re Rupple (Application No. 10326, Decision No. 34019).*

The Wisconsin commission sustained a homeowner's complaint against a village water utility's refusal to extend water service to his premises notwithstanding the fact that the town board had passed an order prohibiting extensions to homes located outside of village limits. The commission held that once the utility had extended service beyond its limits, future service extensions could not be limited by town board action. *Re Village of Frederic (2-U-3169).*

The Wisconsin commission approved the application of a village for authority to operate as a water public utility, to construct facilities, and to establish temporary rates, where it appeared that there was serious need for water service in the area for both domestic and fire-fighting uses; a substantial number of citizens of the village were ready to connect immediately to the system; plans for financing construction had been made; and such construction cost would not exceed the cost for water systems of similar size. *Re New Auburn (CA-2829).*

The Utah commission denied, for lack of jurisdiction, a certificate of convenience and necessity for services which did not relate primarily to transportation of property of others for compensation or hire, but, on the contrary, were essentially services in which materials and labor and knowledge and skill were the principal elements upon which compensation would be based. *Re Varney (Case No. 3111).*

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PUBLIC UTILITIES REPORTS

UNITED STATES SUPREME COURT

Federal Power Commission

v.

East Ohio Gas Company et al.

No. 71
— US —, 94 L ed —, 70 S Ct —
January 9, 1950

REVIEW of decision of Federal court reversing orders of Federal Power Commission finding company to be a natural gas company within the meaning of the Natural Gas Act, requiring compliance with accounting orders, and requiring filing of certain data; order of Commission held valid and judgment of court reversed. For decision by Commission, see (1947) 6 FPC 176, 74 PUR NS 256, and for decision of United States Court of Appeals, see (1949) — US App DC —, 77 PUR NS 97, 173 F2d 429.

Interstate commerce, § 23 — What constitutes — Gas transmission.

1. A continuous flow of natural gas from other states to and through high-pressure transmission lines of a company operating only in one state constitutes interstate transportation, since the gas does not cease its interstate journey the instant it crosses the state boundary or enters the company's pipes, p. 3.

Interstate commerce, § 37.1 — Scope of Natural Gas Act — Intrastate company — Sales to own customers.

2. The provision in § 1(b) of the Natural Gas Act, 15 USCA § 717(b), that the act shall apply to the transportation of natural gas in interstate commerce, does not limit the application of the act to companies engaged in the business of transporting gas in interstate commerce for hire or for sales to be followed by resales, p. 4.

Interstate commerce, § 37.1 — Scope of Natural Gas Act — Transportation by intrastate company.

3. A company obtaining gas from interstate pipe-line companies and selling gas within only one state is, nevertheless, a natural gas company within the meaning of the Natural Gas Act by reason of its transportation of gas in interstate commerce to its local distribution systems, p. 4.

Gas, § 2.1 — Jurisdiction of Commission — Natural gas company — Facilities for local distribution.

4. The provision of the Natural Gas Act making the act inapplicable to the local distribution of natural gas or to the facilities used for such distribution, relates to equipment for distributing gas among consumers within a particular local community, not the high-pressure pipe lines transporting the gas to the local mains; and an intrastate company obtaining its supply from interstate pipe-line companies and transporting it to local communities for distribution is not exempt from regulation, p. 5.

Gas, § 2.1 — Jurisdiction of Commission — Natural gas company.

5. A gas distributing company engaged in interstate commerce by reason of transmission line connections with pipe-line companies from which it obtains out-of-state gas for transportation to local communities where it distributes the gas, is a natural gas company within the meaning of the Natural Gas Act and is subject to regulation by the Federal Power Commission even though it does not sell gas in interstate commerce for resale, p. 5.

Gas, § 2.1 — Jurisdiction of Federal Commission — Effect of state regulation.

6. The Federal Power Commission is not deprived of jurisdiction to regulate a natural gas company transporting gas in interstate commerce, within the meaning of the Natural Gas Act, by reason of the fact that it operates only within one state and all of its business is fully subject to regulation by the state, p. 5.

Appeal and review, § 28.2 — Accounting requirements by Federal Commission.

7. Findings by the Federal Power Commission that orders requiring a natural gas company to furnish accounting data and keep uniform accounts are necessary and proper, should not be rejected by the court on appeal when there is nothing in the record to show that the Commission has required the company to adopt any particular accounting method or make any particular report not reasonably related to the Commission's granted powers in this respect, or that the Commission failed to make proper findings to support its order, p. 8.

Accounting, § 5 — Burdensome requirements — Reasonableness.

8. An order of the Federal Power Commission requiring a natural gas company to furnish accounting data and keep accounts as prescribed by the Commission is not invalid on the ground that it is too burdensome, in the absence of evidence showing that the expense will lay so heavy a burden upon the company as to overpass the bounds of reason, p. 8.

Accounting, § 1.1 — Constitutional limitations — Rights of states.

9. An order of the Federal Power Commission requiring a natural gas company, subject to its jurisdiction and also subject to regulation by a state, to furnish accounting data and to keep accounts as prescribed by the Federal Commission is not invalid on the ground that it violates the reserved right of the state under the Tenth Amendment of the Constitution; § 8(a) of the Natural Gas Act, 15 USCA § 717g (a), provides that nothing in the act

shall relieve such a company from keeping records as required under state law, p. 9.

(JACKSON and FRANKFURTER, JJ., dissent.)

APPEARANCES: Bradford Ross, of Washington, D. C., for petitioner; William B. Coakley, of Cleveland, Ohio, for respondent, East Ohio Gas Co.; Harry M. Miller, of Columbus, Ohio, for respondents, state of Ohio and Public Utilities Commission of Ohio; Walter R. McDonald, for the Indiana Public Service Commission et al., as amici curiae, by special leave of court.

BLACK, J., delivered the opinion of the court: Section 1 (b) of the Natural Gas Act[1] provides that the act "shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption . . . and to natural-gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution . . . ." Section 2 (6), 15 USCA § 717a (6) defines "natural-gas company" as "a person engaged in the transportation of natural gas in interstate commerce . . . ." The Federal Power Commission, after hearings, found as facts that respondent East Ohio Gas Company was a natural-gas company and subject to the Commission's jurisdiction.[2] On these and subsidiary findings the company was ordered to keep accounts and submit reports as required by the act.[3] The Commission rejected the company's contentions[4] that its operations were not covered by the act and that the expense of supplying the required information was so great as to transgress statutory and constitutional limits.[5] The court of appeals for the District of Columbia, without reaching other contentions, reversed the Commission's orders on the ground that the company was not "engaged in the transportation of gas in interstate commerce within the meaning of the act."[6] Importance of the questions to administration of the act prompted us to grant certiorari.

I

[1] East Ohio owns and operates a natural gas business solely in Ohio, selling gas to more than half a million Ohio consumers through local distribution systems. Most of this natural gas is transported into Ohio from Kansas, Texas, Oklahoma, and West Virginia through pipe lines of Panhandle Eastern Pipe Line Company and of Hope Natural Gas Company, an affiliate of East Ohio. Inside the Ohio boundary these interstate lines

[1] 52 Stat 821, as amended by 56 Stat 83, 15 USCA § 717 *et seq.*

[2] The Commission instituted the proceedings on its own motion and on complaint of the city of Cleveland, Ohio. Later other Ohio cities filed similar complaints. See (1939) 1 FPC 586, 28 PUR NS 129; (1943) 4 FPC 15, 52 PUR NS 91; (1944) 4 FPC 497.

[3] See note 15, *infra.*

[4] The Public Utilities Commission of Ohio, an intervenor, made substantially the same contentions.

[5] (1947) 6 FPC 176, 74 PUR NS 256. Related orders and discussions appear in (1943) 4 FPC 15, 52 PUR NS 91; (1944) 4 FPC 497; (1939) 1 FPC 586, 28 PUR NS 129; East Ohio Gas Co. v. Federal Power Commission (1940) 38 PUR NS 397, 115 F2d 385.

[6] (1949) — US App DC —, 77 PUR NS 97, 173 F2d 429.

connect with East Ohio's large high-pressure lines in which the imported gas, propelled mainly by its own pressure, flows continuously more than 100 miles to East Ohio's local distribution systems. The combined length of these high-pressure trunk lines is at least 650 miles.

That this continuous flow of gas from other states to and through East Ohio's high-pressure lines constitutes interstate transportation has been established by numerous previous decisions of this court. The gas does not cease its interstate journey the instant it crosses the Ohio boundary or enters East Ohio's pipes, even though that company operates completely within the state where the gas is finally consumed. Respondents do not and cannot claim that their gas is not in interstate commerce.[7] As we held in Interstate Nat. Gas Co. v. Federal Power Commission (1947) 331 US 682, 688, 91 L ed 1742, 69 PUR NS 1, 67 S Ct 1482, the meaning of "interstate commerce" in this act is no more restricted than that which theretofore had been given to it in the opinions of this court.

[2, 3] Respondents contend, however, that the word "transportation" in § 1 (b) must be construed as applying only to companies engaged in the business of transporting gas in interstate commerce for hire or for sales to be followed by resales, whereas East Ohio does neither. The short answer is that the act's language did not express any such limitation. Despite the unqualified language of § 1 (b) making the act apply to "transportation of natural gas in interstate commerce," respondents ask us to qualify that language by applying it only to businesses which both transport and sell natural gas for resale. They rely on a sentence in the declaration of policy, § 1 (a), referring to "the business of transporting and selling natural gas . . . ." But their contention that the word "and" in the policy provision creates an unseverable bond is completely refuted by the clearly disjunctive phrasing of § 1 (b) itself. As we pointed out in Panhandle Eastern Pipe Line Co. v. Indiana Pub. Service Commission (1947) 332 US 507, 516, 92 L ed 128, 71 PUR NS 97, 68 S Ct 190, § 1 (b) made the Natural Gas Act applicable to three separate things: (1) the transportation of natural gas in interstate commerce; (2) its sale in interstate commerce for resale; and (3) natural gas companies engaged in such transportation or sale. And throughout the act "transportation" and "sale" are viewed as separate subjects of regulation. They have independent and equally important places in the act. Thus, to adopt respondent's construction would unduly restrict the Commission's power to carry out one of the major policies of the act. Moreover, the initial interest of Congress in regulation of transportation facilities was reëmphasized in 1942 by passage of an amendment to § 7 (c) of the act broadening the Commission's powers over the construction or extension of pipe lines. 56 Stat 83, 15 USCA § 717f (c).

[7] See, *e. g.*, Colorado-Wyoming Gas Co. v. Federal Power Commission (1945) 324 US 626, 89 L ed 1235, 58 PUR NS 94, 65 S Ct 850; Illinois Nat. Gas Co. v. Central Illinois Pub. Service Co. (1942) 314 US 498, 503, 86 L ed 371, 42 PUR NS 53, 62 S Ct 384. See also East Ohio Gas Co. v. Tax Commission (1931) 283 US 465, 470, 75 L ed 1171, 51 S Ct 499; The Daniel Ball (1871) 10 Wall (77 US) 557, 19 L ed 999.

This amendment followed a report of the Commission to Congress pointing out that without amendment the act vested the Commission with inadequate power to make "any serious effort to control the unplanned construction of natural gas pipe lines with a view to conserving one of the country's valuable but exhaustible energy resources." [8] We hold that the word "transportation" like the phrase "interstate commerce" aptly describes the movements of gas in East Ohio's high-pressure pipe lines.[9]

[4–6] Respondents also contend that East Ohio is exempt from the act because all its facilities come within the proviso in § 1 (b) making the act inapplicable "to the local distribution of natural gas or to the facilities used for such distribution . . . ." But what Congress must have meant by "facilities" for "local distribution" was equipment for distributing gas among consumers within a particular local community, not the high-pressure pipe lines transporting the gas to the local mains. For in decisions prior to enactment of the statute this court had sharply distinguished between the two: it had made it clear that the national commerce power alone covered the high-pressure trunk lines to the point where pressure was reduced and the gas entered local mains, while the state alone could regulate the gas after it entered those mains.[10] The legislative history shows that the attention

[8] Federal Power Commission, Twentieth Annual Report (1940) p. 78. See Wheat, Administration by the Federal Power Commission of the Certificate Provisions of the Natural Gas Act, 14 Geo Wash Law Rev 194, 197.

[9] In the Pipe Line Cases (United States v. Ohio Oil Co.) [1914] 234 US 548, 562, 58 L ed 1459, 34 S Ct 956, this court held that the Uncle Sam Oil Company was not engaged in "transportation" of oil, within the statutory meaning of that word in the Interstate Commerce Act, where it was "simply drawing oil from its own wells across a state line to its own refinery for its own use, and that is all . . . ." This holding as to the meaning of transportation in the Interstate Commerce Act has slight force, if any, in determination of the word's meaning under this different and far more comprehensive act. Furthermore, East Ohio is not merely moving gas for processing in its own plants. It buys and transports it for sale; there is no further processing of any kind, except for eventual reduction of pressure. This puts East Ohio's transportation more nearly in the category of that which we held to bring oil transportation within the coverage of the Interstate Commerce Act. Valvoline Oil Co. v. United States (1939) 308 US 141, 145, 84 L ed 151, 60 S Ct 160; Champlin Refining Co. v. United States (1946) 329 US 29, 91 L ed 22, 66 PUR NS 65, 67 S Ct 1. In the latter case transported oil was to be sold in interstate commerce, while here the sale was to be made in intrastate commerce. This difference, however, is no persuasive reason why the special holding in the Uncle Sam case should be expanded to control our holding here.

[10] In both Kansas Pub. Utilities Commission v. Landon, 249 US 236, 245, 63 L ed 577, PUR 1919C 834, 39 S Ct 268, and Pennsylvania Gas Co. v. Public Service Commission, 252 US 23, 28, 64 L ed 434, PUR1920E 18, 40 S Ct 279, this court held that states could regulate retail sales of interstate gas to local consumers. In the Landon Case the court reasoned that state control of a local distributing company was permissible because "interstate movement ended when the gas passed into local mains." The Pennsylvania Gas decision, however, was based on a completely different line of reasoning. The court held that the gas continued in interstate commerce until it reached the burner tips, but nevertheless permitted state regulation because retail sales presented a problem of local rather than national concern. In Missouri ex rel. Barrett v. Kansas Nat. Gas Co. 265 US 298, 310, 68 L ed 1027, PUR1924E 78, 44 S Ct 544, the court resolved these conflicting doctrines by readopting the Landon rule. It limited the Pennsylvania Gas holding to its precise facts by interpreting that decision as resting solely on the Landon principle that states could regulate charges for service to local consumers. Rhode Island Pub. Utilities Commission v. Attleboro Steam & Electric Co. 273 US 83, 89, 71 L ed 549, PUR1927B 348, 47 S Ct 294, reaffirmed this choice of doctrine, applying it to a company which like East Ohio, transmitted its product (electricity) wholly within one state. In East Ohio Gas Co. v. Tax Commission, *supra*, note 7, 283 US at pp. 470–472, the court recognized that the doctrine of Pennsylvania Gas extending interstate commerce to the burner tips was in conflict with and must yield to the doctrine of the Landon and Kansas Gas Cases, *supra*. See

of Congress was directly focused on the cases drawing this distinction. It was because these cases had barred Federal regulation of community supply systems that the Committee Report could correctly describe the "local distribution" proviso as surplusage which was "not actually necessary." [11] We are wholly unpersuaded that Congress intended to treat trunk lines like East Ohio's as though they were mere integrated facilities of the numerous community supply systems which they service. Indeed, as respondents admitted upon oral argument here, the logical consequence of such a principle would be that even a pipe line stretching from Texas to Cleveland would be completely exempt from the Federal Commission's jurisdiction if it were owned by East Ohio. To draw such a strained inference from the congressional exemption of local distribution systems would ignore the importance of nationally controlling interstate pipe lines in order to preserve "equality of opportunity and treatment among the various communities and states concerned." Missouri ex rel. Barrett v. Kansas Nat. Gas Co. 265 US 298, 310, 68 L ed 1027, PUR 1924E 78, 44 S Ct 544.

What we have said indicates that East Ohio comes squarely within the coverage of the act as set out in §§ 1 (b) and 2 (6). Nevertheless respondents contend that this express coverage is restricted by the broad purpose of the act to provide Federal regulation only for those companies which states could not regulate. Urging that all of East Ohio's business is fully subject to regulation by the state, they rely on statements by this court that Congress intended not to cut down state regulatory power, but rather to supplement it by closing "the gap created by the prior decisions." Panhandle Eastern Pipe Line Co. v. Indiana Pub. Service Commission (1947) 332 US 507, 517–519, 92 L ed 128, 71 PUR NS 97, 68 S Ct 190; see also Ohio Pub. Utilities Commission v. United Fuel Gas Co. (1943) 317 US 456, 467, 87 L ed 396, 46 PUR NS 257, 63 S Ct 369. We adhere to those statements. But *prior* constitutional decisions, not what we have since decided or would decide today, form the measure of the gap which Congress intended to close by this act. Illinois Nat. Gas Co. v. Central Illinois Pub. Service Co. (1942) 314 US 498, 508, 86 L ed 371, 42 PUR NS 53, 62 S Ct 384; and see Parker v. Motor Boat Sales (1941) 314 US 244, 250, 86 L ed 184, 62 S Ct 221.

In a series of cases repeatedly called to the attention of the House Committee,[12] this court had declared that states could regulate interstate gas

note 13 *infra*. Thus when the Natural Gas Act was passed this court's decisions had already resulted in a sharp cleavage between local distribution facilities and high-pressure pipe lines serving those facilities.

[11] The report stated that the proviso was "not actually necessary, as the matters specified therein could not be said fairly to be covered by the language affirmatively stating the jurisdiction of the Commission." H. R. Rep. No. 709, 75th Cong. 1st Sess. pp. 3, 4. This could only mean that the phrase "interstate commerce" was construed by the committee, as it had been by this court, to exclude "local distribution."

[12] The record of the committee hearings is crowded with repeated references to the cases discussed in note 10 *supra;* no other cases received such emphasis. The general solicitor for the National Association of Railroad and Utilities Commissioners, for example, explained to the House Subcommittee considering the proposed bill that the East Ohio Case, *supra,* "established very clearly that a state has jurisdiction to regulate the business of distributing gas after it has been imported, and the pres-

only after it was reduced in pressure and entered a local distribution system. Kansas Pub. Utilities Commission v. Landon, 249 US 236, 243, 63 L ed 577, PUR1919C 834, 39 S Ct 268; Missouri ex rel. Barrett v. Kansas Nat. Gas Co. *supra,* 265 US at p. 310, PUR1924E at p. 83; Rhode Island Pub. Utilities Commission v. Attleboro Steam & Electric Co. 273 US 83, 89, 71 L ed 549, PUR1927B 348, 47 S Ct 294; and see East Ohio Gas Co. v. Tax Commission (1931) 283 US 465, 470–472, 75 L ed 1171, 51 S Ct 499.[13] Under these decisions state regulatory power could not reach high-pressure trunk lines and sales for resale. This was the "gap" which Congress intended to close. It therefore acted under the Federal commerce power to regulate what these decisions had indicated that the states could not. We have already held that in so doing Congress subjected to Federal regulation a company transporting interstate gas, and selling it for resale, wholly within one state. Illinois Nat. Gas Co. v. Central Illinois Pub. Service Co. *supra.*[14] The only respect in which East Ohio differs from that company is that it sells gas direct to consumers rather than for resale. This difference is immaterial. For as we have already pointed out, East Ohio comes directly within the express provision granting power to the Commission to regulate "transportation of natural gas in interstate commerce," just as the Illinois Company came directly within the express provision covering sale for resale. And in the light of the Illinois Gas decision we cannot see how the "local distribution" proviso can be construed as encompassing all of East Ohio's operations throughout the state. That proviso cannot mean one thing for "transportation" and another where "sale for resale" is involved.

Here as elsewhere, once a company is properly found to be a "natural gas company," no state can interfere with Federal regulation. That a state Commission might also have some regulatory power would not preclude exercise of the Commission's function. Connecticut Light & P. Co. v. Federal Power Commission (1945) 324 US 515, 533, 89 L ed 1150, 58 PUR NS 1, 65 S Ct 749; Rhode Island Pub. Utilities Commission v. Attleboro Steam & Electric Co. *supra,* 273 US at pp. 89, 90, PUR1927B at p. 353. Nor does the act purport to abolish all over-

sure has been stepped down to permit of local distribution. It, however, leaves the state authorities still subject to the rule announced in the Kansas Case. . . ." The solicitor of the Federal Commission pointed out to the same committee that "The states cannot control the wholesale rates extracted for natural gas thus transported, nor may they regulate any other of the phases of interstate transportation." Amendments which would have specifically exempted from Federal regulation all companies operating wholly within one state were proposed but rejected.

[13] See note 10 *supra.* The East Ohio Case cited above concerned the question of whether the company was subject to state taxes. The tax doctrines involved are irrelevant here. Undeniably relevant, however, is the fact that Congress directly considered the doctrine of interstate commerce enunciated in that case: that transportation of out-of-state gas to the local systems "is essentially national—not local—in character and is interstate commerce within as well as without that state." 283 US at p. 470.

[14] There are implications in the court's opinion that under prevailing constitutional doctrine a state might now, in the absence of Federal legislation, regulate such a company as Illinois Gas or East Ohio, *supra.* See Illinois Nat. Gas Co. v. Central Illinois Pub. Service Co. *supra,* 314 US at p. 504, 42 PUR NS at p. 56, discussed in Panhandle Eastern Pipe Line Co. v. Indiana Pub. Service Commission, *supra,* 332 US at p. 512, 71 PUR NS at p. 100. But compare Hood & Sons v. DuMond (1949) 336 US 525, 545, 93 L ed 865, 878, 69 S Ct 657.

lapping. Section 5 (b), 15 USCA § 717d (b), for example, provides that the Commission may "investigate and determine the cost of the production or transportation of natural gas by a natural-gas company in cases where the Commission has no authority to establish a rate governing the transportation or sale of such natural gas." Yet clearly the state agency establishing such a rate would have equivalent authority.

We find no language in the act indicating that Congress meant to create an exception for every company transporting interstate gas in only one state. Regardless of whether it might have been wiser and more farseeing statesmanship for Congress to have made such an exception, we should not do so through the interpretative process. There is nothing in the legislative history which authorizes us to interpret away the plain congressional mandate.

II

[7, 8] A contention, not passed on by the court of appeals but urged here by respondents, is that compliance with the Commission's accounting and report orders would impose so great a burden on East Ohio "as to make such orders transgress statutory and constitutional limits." Our attention is not specifically referred to anything in the record showing that the Commission has required East Ohio to adopt any particular accounting method or make any particular report not reasonably related to the Commission's granted powers in this respect.[15] Nor did the Commission fail to make proper findings to support its order. All of the Commission requirements affirmatively appear to call for the precise kind of accounting system, information, and reports that Congress deemed relevant and necessary for the Commission to have in performing its regulatory duties. The principles of law governing such requirements were adequately set out by Mr. Justice Cardozo speaking for the court in American Teleph. & Teleg. Co. v. United States (1936) 299 US 232, 81 L ed 142, 16 PUR NS 225, 57 S Ct 170. See also Northwestern Electric Co. v. Federal Power Commission (1944) 321 US 119, 88 L ed 596, 52 PUR NS 86, 64 S Ct 451. Measured by these criteria for judicial review of such orders, we find no reason to reject the Commission's findings that the orders here issued were necessary and proper as applied to East Ohio. And as to the cost of compliance, it is sufficient to say as the court said in the American Teleph. & Teleg. Case, *supra*, 299 US at p. 247, 16 PUR NS at p. 235: "The evidence does not show that the expense . . . will lay so heavy a burden upon the com-

[15] The orders here primarily rest on Commission regulations pursuant to the following sections. Section 6(a) authorizes the Commission to require a natural gas company to file "an inventory of all or any part of its property and a statement of the original cost thereof and keep the Commission informed regarding all additions, betterments, extensions and new construction." Section 8(a) makes it the duty of such companies to keep "such accounts, records of cost-accounting procedures," etc., as the Commission may by rules and regulations prescribe. Section 10(a) similarly requires "annual and other periodic or special reports." Section 5(b) authorizes the Commission to "investigate and determine the cost of the . . . transportation of natural gas by a natural gas company" even where the Commission has no authority to establish rates for the transportation or sale of that gas. Section 16 vests the Commission with broad powers to prescribe general orders, rules, and regulations found "necessary or appropriate to carry out the provisions of this act."

panies as to overpass the bounds of reason." [16]

[9] The contention that the Commission's order violates the reserved rights of the states under the Tenth Amendment is foreclosed by the court's holding in Northwestern Electric Co. v. Federal Power Commission, *supra*, 321 US at p. 125, 52 PUR NS at p. 90. Section 8 (a) of the Natural Gas Act, 15 USCA § 717 g (a), itself provides that "nothing in this act shall relieve any such natural-gas company from keeping any accounts, memoranda, or records which such natural-gas company may be required to keep by or under authority of the laws of any state."

The Commission's order is valid and should be enforced.

Reversed.

Mr. Justice Douglas and Mr. Justice Burton took no part in the consideration or decision of this case.

JACKSON, J., whom FRANKFURTER, J., joins, dissenting: If this were a case of applying an explicit policy of Congress to one recalcitrant gas company, there would of course be no dissent. But if it were such, we would not be likely to find the state of Ohio and her Utility Commission, the National Association of Railroad and Utility Commissioners, and public authorities of several states, including some with notable records for protecting the public interest, here helping the utility. This alliance of state authorities against the Federal Power Commission suggests that there must be more to this case than meets the eye.

The key to an understanding of the Federal Natural Gas Act is its purpose to supplement but not to supplant state regulation. Before passage of the act, each state was able to regulate the ultimate price of natural gas distributed to its consumers. Pennsylvania Gas Co. v. Public Service Commission, 252 US 23, 64 L ed 434, PUR1920E 18, 40 S Ct 279. This court has never denied any state that power. But in doing so they were obliged to allow as operating costs what the distributing company paid for the gas when brought into its system from out of the state. This purchase price the state could not regulate, often not even investigate, and the purchases frequently were from affiliates, a fact which might cool the local company's normal zeal to drive a good bargain for itself and its consumers. Hence, the states appealed to Congress to set up machinery to fix the import price of out-of-state gas. This was all that the states asked the Federal government to do, and it is everything that the Federal Power Commission revealed any purpose to do while the legislation was pending. Its solicitor summarized the purposes before a subcommittee of the House Committee on Interstate and Foreign Commerce, as follows: "The whole purpose of this bill is to bring under Federal regulation the pipe lines and to leave to the state Commissions control of distributing companies and over their rates, whether that gas moves in interstate commerce or not." Hearings before a Subcommittee of the House Committee on Interstate

[16] The Commission found that East Ohio's estimate placing the cost of compliance at between $1,500,000 and $2,000,000 was "not convincing, for our experience with other companies with greater property investment indicates that this estimate is considerably exaggerated." (1947) 6 FPC 176, 183, 74 PUR NS 256, 263.

and Foreign Commerce on H. R. 11662, 74th Cong. 2d Sess. 24. That is what the state authorities active in promoting the legislation seem to have believed had been accomplished.

East Ohio is an all-Ohio company, deriving income solely from distributing gas directly to Ohio consumers. It sells no gas for resale. All of its assets are located and all of its business is transacted in Ohio. Since 1911, the Ohio State Commission has exercised regulatory powers over it which have included rate making, authorizing acquisition of sale of property, approval of capitalization and security issues, complete control of accounting practices, and requiring detailed periodic reports. Except for inability to fix the price at which gas should be delivered to the company at the state line, Ohio is able to supervise and regulate this utility completely and continuously.

The Federal Power Commission, as authorized by the act, fixed the state-line price that East Ohio must pay for its out-of-state supplies. But now it seeks to go beyond this and superimpose some features of its regulation which conflict with the regulation of the identical subject matter by the state of Ohio. How much farther than the order here under review the Commission will go in supplanting or duplicating state regulation is not clear from its argument, and how far it can go is rendered unclear by the court's opinion which expressly approves some overlapping but leaves its bounds in carefully stated doubt. The anxiety which this program stirs among other states is explained by its magnitude. The Power Commission in its petition here notes forty-three pending cases in which it takes this same position vis-à-vis state regulation.

It appears that the present particular issue arises because the Commission has theories of accounting different from those the state has seen fit to accept. The Federal Commission has ordered East Ohio to change its entire accounting system for all of its properties at a very heavy cost. This requires it either to conduct its accounting contrary to laws of Ohio and the orders of the state Commission or perhaps to keep two sets of books. This is a real conflict in which experience shows state control will wither away and leave the Federal rule in possession of the field.

This court can sustain such overlapping and overriding of the state's authority only by repudiating its own recent statements. After reviewing the history of the Natural Gas Act, we have said that "Congress meant to create a comprehensive scheme of regulation which would be complementary in its operation to that of the states, without any confusion of functions." Ohio Pub. Utilities Commission v. United Fuel Gas Co. (1943) 317 US 456, 467, 87 L ed 396, 46 PUR NS 257, 264, 63 S Ct 369. In a later case, quoting H. R. Rep. No. 709, 75th Cong. 1st Sess., we said that "[T]he bill was designed to take 'no authority from state Commissions' and was 'so drawn as to complement and in no manner usurp state regulatory authority.'" Federal Power Commission v. Hope Nat. Gas Co. (1944) 320 US 591, 610, 88 L ed 333, 51 PUR NS 193, 64 S Ct 281. Quoting the same House Report, we thereafter pointed out that "[T]he 'basic purpose' of Congress in passing

the Natural Gas Act was 'to occupy this field in which the Supreme Court has held that the states may not act.'" Interstate Nat. Gas Co. v. Federal Power Commission (1947) 331 US 682, 690, 91 L ed 1742, 69 PUR NS 1, 6, 67 S Ct 1482. And only last year we observed that, "The Natural Gas Act was designed to supplement state power and to produce a harmonious and comprehensive regulation of the industry. Neither state nor Federal regulatory body was to encroach upon the jurisdiction of the other." Federal Power Commission v. Panhandle Eastern Pipe Line Co. 337 US 498, 513, 93 L ed —, 81 PUR NS 161, 170, 69 S Ct 1251.

What defines the point beyond which the provisions of the act shall not apply? The court suggests that there is an inherent limitation on the affirmative grant of power which would render surplusage the clause in § 1 (b) denying application of the act to "the local distribution of natural gas or to the facilities used for such distribution." Or it may be this exclusionary clause itself. At any rate, the court finds the dividing line of jurisdiction to be drawn by physical characteristics of the transmission lines. It seizes upon the point where the high pressure at which gas is transmitted any substantial distance is reduced to the low pressure at which it must be served to customers' burners through the community supply lines as the outer limit of the "local" area reserved to the states.

Recognizing the purpose of the Federal Natural Gas Act of June 21, 1938, to regulate only that which was unregulated and unregulatable by the states, the court assumes that decisions *prior* to its passage, "not what we have decided or would decide today," fix the states' power for the purposes of measuring that of the Commission. The court has heretofore followed the principle that Congress does not intend to freeze the impact of its legislation within current judicial decisions in the absence of evidence which makes such intention unmistakable. United States v. South-Eastern Underwriters Asso. (1944) 322 US 533, 88 L ed 1440, 64 S Ct 1162. But today it makes no effort to look for evidence of such an intention and had it searched it would not have found it. *Cf.* Helvering v. Griffiths (1943) 318 US 371, 87 L ed 843, 63 S Ct 636; Parker v. Motor Boat Sales (1941) 314 US 244, 86 L ed 184, 62 S Ct 221.

Today's anomalous result whereby the Commission is given regulatory power over the intrastate distribution facilities of a gas company over whose sales it admittedly has no jurisdiction is based upon the premise that paramount in Congress' mind in dealing with cases prior to passage of the act, was, not the holdings of applicable cases relating to regulation, but the peculiarly mechanistic formula employed principally in 1931 in East Ohio Gas Co. v. Tax Commission (1931) 283 US 465, 75 L ed 1171, 51 S Ct 499,[1] as a means of holding that the state of Ohio could levy an excise tax based on the entire gross

[1] In the East Ohio tax case the reduction of pressure and expansion of volume of the gas at the point of entrance into local supply mains was compared to the breaking of an original package after shipment in interstate commerce, so that its contents could be treated, prepared for sale, and sold at retail.

receipts from sales to local consumers by an interstate gas company.

I find no convincing indication, either in the language of the act or in its legislative history, that Congress intended that we should be forever bound, in construing this legislation, either by the then current decisions as to limitations of the Commerce Clause on state power, *cf.* United States v. South-Eastern Underwriters Asso. *supra,* or by the then current criteria of what separated local from nonlocal facilities. The crucial question is not whether this court in 1931 would have held a given factual situation without the area of local distribution and beyond the reach of state regulation, but whether this court today can say that the Federal power can be exerted because the state power cannot be exerted. So long as we pay even lip service to Congress' intention to leave to the states that which they can regulate, we cannot satisfactorily beg this question.

But even if the court is to shift to the doctrine that Congress casts its acts forever in the mold made by prior decisions of this court, the pressure reduction station now relied upon to limit "local" had lost its standing even in tax cases and never was accepted in regulation cases. If Congress was interested in tax case criteria when it passed the Natural Gas Act, it must have known of this court's disdainful disregard of pressure changes in favor of emphasis on the difference between wholesale and retail distribution less than half a year after the East Ohio tax decision. State Tax Commission v. Interstate Nat. Gas Co. (1931) 284 US 41, 76 L ed 156, 52 S Ct 62.[2]

And yet, although the Committee Reports and the records of congressional debates on the Natural Gas Act may be scanned in vain for any mention of this pressure reduction point, we are now asked to believe that Congress fixed it as the point where state control should end and Federal control should begin. With this approach, today's decision confines the states' regulatory power to the service area, bounded by the low-pressure transmission system, which means practically within the city gates. By its emphasis on this pressure change the court finds a "plain congressional grant of Commission jurisdiction over high-pressure pipe lines such as those of East Ohio." However, this pressure factor is one which we found immaterial in Interstate Nat. Gas Co. v. Federal Power Commission, *supra,* 331 US at p. 689, 69 PUR NS at p. 6, where, with rare unanimity, we put our emphasis upon the fact of sale for resale in interstate commerce. But today it is the difference between retail and wholesale operations which is termed immaterial, so long as the factor of high-pressure pipe lines is present.

[2] The question before the court concerned the power of the state of Mississippi to tax wholesale operations of an interstate pipe-line company. Curtly dismissing the state's arguments resting on the fact that the gas pressure had been reduced before the sale for resale, the court held, as succinctly stated in the headnote: "The selling of gas wholesale to local, independent distributors from a supply passing into and through the state in interstate commerce, does not become a local affair and subject to a local privilege tax merely because the vendor, to deliver the quantities sold, uses a thermometer and a meter and reduces the pressure." In its argument to the court, 284 U. S., at p. 42, the state had presented the analogy of pressure reduction to the breaking of an original package shipped in interstate commerce, *cf.* note 1, *supra.* State Tax Commission v. Interstate Nat. Gas Co. *supra,* 284 US 41.

This shift in emphasis rests upon inferences drawn from the legislative history of the Natural Gas Act which are wholly inconsistent with those drawn in our prior decisions examining the subject. Heretofore we have been careful consistently to observe that Congress did not attempt to occupy the entire field within the limits of its constitutional power, and until today we have insisted that in extending Federal regulation Congress "was meticulous to take in only territory which this court had held the states could not reach." Panhandle Eastern Pipe Line Co. v. Indiana Pub. Service Commission (1947) 332 US 507, 514, 92 L ed 128, 71 PUR NS 97, 101, 68 S Ct 190. We said only two years ago in that case that "[B]y 1938 the court had delineated broadly between the area of permissible state control and that in which the states could not intrude. The former included interstate direct sales to local consumers, as exemplied in Pennsylvania Gas Co. v. Public Service Commission, 252 US 23, 64 L ed 434, PUR1920E 18, 40 S Ct 279; the latter, service interstate to local distributing companies for resale, as held in Missouri ex rel. Barrett v. Kansas Nat. Gas Co. 265 US 298, 68 L ed 1027, PUR1924E 78, 44 S Ct 544, reinforced by Rhode Island Pub. Utilities Commission v. Attleboro Steam & Electric Co. 273 US 83, 71 L ed 549, PUR1927B 348, 47 S Ct 294." And we went on to say that the purpose of the legislation was to make state regulation effective "by adding the weight of Federal regulation to supplement and reinforce it in the gap created by the prior decisions." *Supra,* 332 US at p. 517, 71 PUR NS at p. 103. And see Interstate Nat. Gas Co. v. Federal Power Commission (1947) 331 US 682, 689, 91 L ed 1742, 69 PUR NS 1, 67 S Ct 1482; also, Federal Power Commission v. Hope Nat. Gas Co. (1944) 320 US 591, 609, 88 L ed 333, 51 PUR NS 193, 64 S Ct 281, quoting from Illinois Nat. Gas Co. v. Central Illinois Pub. Service Co. (1942) 314 US 498, 506, 86 L ed 371, 42 PUR NS 53, 62 S Ct 384. We could hardly have said more clearly that the "gap" was in the wholesale realm of the natural gas industry in interstate commerce.

The court's opinion professes to adhere to these statements relating to the gap Congress intended to close. But it first widens the gap, squarely upon the premise that, under decisions of this court called to Congress' attention prior to passage of the act, the state regulatory power could not reach transmission lines for interstate gas outside the point of reduction in pressure. Actually, no decision could have been called to the attention of Congress, and none is or can be cited today, in which this court held that any of the intrastate transmission lines of any retail gas, electric, or similar company, within or without the pressure-reduction point, were beyond the state regulatory authority. Nor was this question even at issue in any case cited by the court in support of its premise. That is not to say that the question was not considered, however. Quite to the contrary, less than two months before passage of the Natural Gas Act, this court, through the pen of Mr. Chief Justice Hughes, in a case not cited by the court, declared that such transmission lines were properly within the sphere of

state rate-making powers. Lone Star Gas Co. v. Texas (1938) 304 US 224, 82 L ed 1304, 24 PUR NS 119, 58 S Ct 883.[3] And so if Congress were consulting the decisions of this court to define the gap in state power, which it must fill with the Commission's function, it found the latest, and all but unanimous one, to declare that no gap such as the court perceives today was then existent.

Although the scope of the Natural Gas Act was not limited to sales of natural gas in interstate commerce for resale, it must be recognized that, if any one thing is clear from the legislative history of this act, it is that Congress' paramount concern was to establish regulation of such prices.[4] And it must likewise be recognized that, whatever of our old doctrines may have been frozen into the act, could not include the point of pressure reduction and entrance into municipal lines as the measure of state regulatory authority for no such doctrine can be found in our cases.

Thus it is apparent that in selecting the point to mark either the inherent limitation in the act's affirmative

[3] In the Lone Star Case this court examined the validity of an order of a Texas Commission fixing the rate to be charged by the Lone Star company for gas sold to local distributing companies at the gates of numerous Texas communities. Most of the Lone Star gas was piped from fields in the Texas Panhandle, but across a segment of Oklahoma. A small amount was produced or purchased in Oklahoma, piped into Texas, treated, and added to the local supply. Thus commingled beyond separate recognition, both types of gas were conducted through high-pressure lines and sold to the various retail distributing companies. Because of the interrelated corporate structure of Lone Star and these distributing companies, the court treated them as one operating unit, and approved the state's exercise of its rate-making power based upon valuation of the entire integrated system.

[4] H. R. Rep. No. 709, 75th Cong. 1st Sess., adopted without change in S. Rep. No. 1162, 75th Cong. 1st Sess., said of the proposed bill which became the Natural Gas Act: ". . . The states have, of course, for many years regulated sales of natural gas to consumers in intrastate transactions. The states have also been able to regulate sales to consumers even though such sales are in interstate commerce, such sales being considered local in character and in the absence of congressional prohibition subject to state regulation. (See Pennsylvania Gas Co. v. Public Service Commission, 252 US 23, 64 L ed 434, PUR1920E 18, 40 S Ct 279.) There is no intention in enacting the present legislation to disturb the states in their exercise of such jurisdiction. However, in the case of sales for resale, or so-called wholesale sales, in interstate commerce (for example sales by producing companies to distributing companies) the legal situation is different. Such transactions have been considered to be not local in character and, even in the absence of Congressional action, not subject to state regulation. (See Missouri ex rel. Barrett v. Kansas Nat. Gas Co. 265 US 298, 68 L ed 1027, PUR1924E 78, 44 S Ct 544, and Rhode Island Pub. Utilities Commission v. Attleboro Steam & Electric Co. 273 US 83, 71 L ed 549, PUR1927B 348, 47 S Ct 294.) The basic purpose of the present legislation is to occupy this field in which the Supreme Court has held that the states may not act."

Congressional debates on the bill were similarly concerned with those aspects of the natural gas industry over which no state regulatory control existed. These debates were led, in the House, by Chairman Lea of the Committee on Interstate and Foreign Commerce, and, in the Senate, by Chairman Wheeler of the Committee on Interstate Commerce. In his explanatory statement the former declared, "The primary purpose of the pending bill is to provide Federal regulation, in those cases where the state Commissions lack authority, under the interstate commerce law. This bill takes nothing from the state Commissions; they retain all the state power they have at the present time." 81 Cong Rec 6721. And he added later, "The object of this bill is to supply regulation in those cases where the state Commission has no power to regulate." *Ibid.* Committee member Halleck assured the House that, "[T]his bill seeks only to reach those sales where the sale is for resale to the ultimate consumer." *Id.*, 6723. And in the Senate, Chairman Wheeler declared: "There is no attempt and can be no attempt under the provisions of the bill to regulate anything in the field except where it is not regulated at the present time. It applies only as to interstate commerce and only to the wholesale price of gas." 81 Cong Rec 9313.

Neither the East Ohio Case, *supra*, nor its mechanistic formula was emphasized or even adverted to in the Committee Reports or in the congressional debates.

grant of power to the Commission, or the corollary limit imposed by the clause excluding facilities used in local distribution, the court has resorted to criteria neither supportable by this court's decisions prior to the act nor even claimed to be consistent with its most recent doctrines.

But if the pressure-reduction point cannot be resurrected from the East Ohio tax case to bound the facilities used in the local distribution of natural gas in interstate commerce, what criteria can we employ? It is not as though a simple, unsophisticated answer were not available. It seems to me that the obvious answer is that intrastate transmission lines, of a retail gas company, devoted exclusively to serving communities within the state are facilities used in the local distribution of natural gas and are accordingly excepted from application of the act. For it must not be forgotten that if justification for today's decision cannot be found in § 1 (b) of the act, it cannot be established by resort to the language of those sections defining the Commission's powers. For § 1 (b) is jurisdictional. It sets forth the areas to which the provisions of the act shall and shall not apply. Its "but" clause was Congress' assurance to the state bodies sponsoring the legislation that Federal control would not extend to the area within their authority. *Cf.* Connecticut Light & P. Co. v. Federal Power Commission (1945) 324 US 515, 527, 89 L ed 1150, 58 PUR NS 1, 65 S Ct 749.

This simple solution squares not only with modern standards, but also with the approach, if it is to be adopted, that Congress in passing this act froze into law current judicial decisions. It keeps faith with the states. It is decidedly consistent with our recent declaration under the almost identical words of a similar act that limitation of local facilities was not to be found in the East Ohio tax formula, and that even the transmission lines of a statewide system supplying electric power to consumers in over a hundred communities are "facilities used in local distribution." Connecticut Light & P. Co. v. Federal Power Commission, *supra.*

Of course, this solution does not render meaningless the "transportation of natural gas in interstate commerce" to which the provisions of the act apply. For instance it would logically enough give to the Federal Power Commission, under the above "transportation clause," exclusive jurisdiction over the main transmission lines of a retail gas company which ran through Ohio and on into New York; but it would leave to Ohio exclusive jurisdiction over lateral lines branching out from the main trunk in Ohio and, whether one or one hundred miles long, devoted exclusively to delivering gas to the burner tips in Ohio communities. Similarly, under the hypothesis constructed in the court's opinion, wherein East Ohio is pictured as having its own transmission lines extending all the way from Texas, it would give exclusively to the Power Commission jurisdiction over those lines beyond the Ohio border as well as over those within or without the state not devoted exclusively to serving Ohio consumers at retail. Again, it would, quite obviously within the words of the act, give exclusively to the Power Commission jurisdic-

tion over companies which might act in the nature of common carriers transporting gas in interstate commerce for hire. In short it would give to the transportation clause a meaning which, contrary to today's opinion, does not render surplusage the "sale in interstate commerce of natural gas for resale" to which the provisions also apply.[5]

What the Power Commission asks the court to do today is not to fill a gap in the state's power to regulate, for there is none, but to create a gap in order to make room for Federal power.

I can well understand the zeal of the Federal Power Commission to expand its control over the natural gas industry. It sprawls over many states and each system must be physically integrated from the depths of the wells to the consumer's burner tips. Its regulation cannot be uniform if the Federal Commission controls only a middle segment, with production on one end and distribution on the other committed to the control of different states. But that was as far as Congress was willing to supersede state authority. It left the peculiar problems affecting production to the producing states; it left the ultimate protection of consumers to the consuming states, and it left the Federal Power Commission in the middle to fix the rates for gas moving between the two. This obviously subdivides regulation of what has to operate as a unitary enterprise, but that is often the consequence of our Federal system. Whatever we may think would be wise policy in this field, the act which Congress passed places limitations upon the Power Commission, which may chafe but which neither we nor the Commission are free to override. If the Commission had foreshadowed its present course, I do not suppose the act would have passed, for it certainly would have evoked resistance of the state regulatory agencies instead of their support.

Congress may well have believed that diversity of experimentation in the field of regulation has values which centralization and uniformity destroy. As Mr. Justice Brandeis said, "It is one of the happy incidents of the Federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel, social, and economic experiments without risk to the rest of the country." New State Ice Co. v. Liebmann, 285 US 262, 311, 76 L ed 747, PUR1932B 433, 457, 52 S Ct 371. Long before the Federal government could be stirred to regulate utilities, courageous states took the initiative and almost the whole body of utility practice has resulted from their experiences.

We must not forget that regulatory measures are temporary expedients, not eternal verities—if indeed they are verities at all. Certainly one of the matters on which the states might well be indulged—the right to an opinion of their own—is as to the accounting

[5] The suggested construction also comports with the conclusions of the House and Senate Committee reports, H. R. Rep. No. 709, 75th Cong. 1st Sess. 3, and S. Rep. No. 1162, 75th Cong. 1st Sess. 3: "That part of the negative declaration stating that the act shall not apply to 'the local distribution of natural gas' is surplusage by reason of the fact that distribution is made only to consumers in connection with sales, and since no jurisdiction is given to the Commission to regulate sales to consumers the Commission would have no authority over distribution, whether or not local in character."

methods of a utility whose whole property and business being accounted for is within the state. Out of their diversity of practice and experience emerge pragmatic tests. What the Federal Power Commission seeks to require of this Ohio gas company, for example, is to revert by accounting methods to emphasis on original cost, a basis which William Jennings Bryan for an earlier generation of progressives eloquently urged this court to reject in the field of railroad rate making. Smyth v. Ames (1898) 169 US 466, 42 L ed 819, 18 S Ct 418. See Mr. Bryan's argument, p. 489. That is a basis of which, last month, we said in another connection, "Original cost is well termed the 'false standard of the past' where, as here, present market value in no way reflects that cost." United States v. Toronto, Hamilton & B. Nav. Co. (1949) — US —, — L ed —, 70 S Ct 217, 221. It must be remembered that closer than any Federal agency to those they regulate and to their customers are the state authorities, whose mechanisms are less cumbersome and whose principles can much more quickly be adjusted to the changing times.

We should not utilize the centralizing powers of the Federal judiciary to destroy diversities between states which Congress has been scrupulous to protect. If now and then some state does not regulate its utilities according to the Federal standard, it may be a small price to pay for preserving the state initiative which gave us utilities regulation far in advance of Federal initiative.

I think that observance of good faith with the states requires that we interpret this act as it was represented at the time they urged its enactment, as its terms read, and as we have, until today, declared it, *viz.*, to supplement but not to supplant state regulation. What amounts to an entrapment of the state agencies that supported this act under the representation that it would not deprive them of powers but would only make their powers effective will probably not make it easier to get needed regulatory legislation in the future.

ARKANSAS PUBLIC SERVICE COMMISSION

Re Public Service Corporation

Docket No. U-410
December 21, 1949

APPLICATION *of telephone company for allocation of area for rural telephone service and for authority to construct and operate telephone facilities in that area; granted.*

Certificates of convenience and necessity, § 123 — Economic feasibility — Federal financing — Rural telephones.

1. A determination of the question whether the construction of rural tele-

phone lines is required by public convenience and necessity must, notwithstanding prior standards of economic feasibility, be made in the light of the provisions of Public Law 423, Eighty-first Congress, which establishes the policy that feasibility of individual lines be determined not only upon the number of subscribers on a particular line, but also in relation to the number of subscribers on other lines in the area; what is not economically feasible under high-cost private financing may be feasible under low-cost Federal financing, p. 20.

Rates, § 574 — Telephone company — Absence of toll charges.

2. A telephone company's proposal to render dial service throughout its entire area without a toll charge for calls between any of its subscribers is sound and reasonable where new subscriber rates are being introduced for an entire area and distances between all subscribers are relatively short, p. 20.

Monopoly and competition, § 85 — Telephone service — Duplication of lines.

3. The construction of rural telephone lines and facilities will not result in duplication of facilities where the new facilities will provide exchange service within a unified area and existing toll facilities provide only long-distance service between individual towns, p. 21.

Security issues, § 82 — Refinancing program — Rural telephone construction.

4. A rural telephone company was authorized to refinance its existing 3 per cent 6-year first mortgage debt with 2 per cent 35-year funds to be provided from a loan from the Rural Electrification Administration, since the refinancing constituted but a small fraction of the company's proposed loan and was necessary in order that a first mortgage might be given on the entire property, p. 21.

Security issues, § 99 — Rural telephone construction — Capital ratios.

5. The Commission will make allowances in its policy regarding capital ratios to enable a rural telephone company to negotiate a loan from the Rural Electrification Administration for the financing of a construction project, in view of congressional recognition that rural telephone service on a large scale cannot be provided generally without low-cost, long-term money, p. 21.

Certificates of convenience and necessity, § 73 — Rural telephone line construction — Time limit for construction.

6. The Commission, in authorizing rural telephone line construction, waived its rule providing that construction must be started within four months of the granting of a certificate to the extent that construction must be begun within four months from the date of a loan commitment of the Rural Electrification Administration, or six months from the date of the granting of the certificate, whichever should be later, p. 22.

Monopoly and competition, § 83 — Telephone construction — Allocation of service areas.

Statement in separate concurring opinion that the Commission should adopt a policy which will provide telephone service to all rural areas in the state as rapidly as possible, and that, therefore, the Commission should not allocate service areas to any telephone company, p. 24.

(McCULLOCH, Commissioner, concurs in part.)

By the COMMISSION: On November 21, 1949, the Public Service Corporation filed its application with the Commission for allocation to it of certain area for rural telephone development; for a certificate of convenience and necessity to construct, operate, and maintain certain rural telephone lines, and to rehabilitate and convert the exchanges at Tuckerman and Swifton, Arkansas; and for authority to negotiate a loan from the Rural Electrification Administration for the above construction.

On November 30, 1949, a hearing was held in this matter.

The Commission has carefully considered the application, its exhibits, and all the evidence adduced in connection therewith, and now makes the following findings and reaches the following conclusions:

The Public Service Corporation (hereinafter called "Company") is incorporated under the laws of Arkansas and is now existing under and by virtue of these laws. It is an operating public utility, presently providing telephone service in the incorporated towns of Tuckerman and Swifton, Arkansas, and is subject to the jurisdiction of this Commission under Act 324 of the Acts of the General Assembly of Arkansas for 1935. It has obtained its authority to provide this service in Dockets Nos. U-395, U-402, and U-403 of this Commission.

The Company proposes the following program and has requested authority therefor:

1. To rehabilitate the exchange plants at Tuckerman and Swifton, and to expand those facilities in order to provide service for approximately 130 prospective subscribers requesting service in the two towns, and to provide capacity for rural lines.

2. To convert the existing manually operated magneto service in Tuckerman and Swifton to dial service.

3. To construct 104 miles of rural telephone line to provide common battery dial service to approximately 320 prospective subscribers now requesting service in the rural areas around Tuckerman and Swifton and in the incorporated town of Alicia. An exchange plant and an unattended dial switchboard are required at Alicia in addition to the rural lines.

4. To provide trunking facilities between Tuckerman and Swifton and Tuckerman and Alicia and manual switchboard facilities at Tuckerman for the operation of the trunking facilities as well as toll business. No toll charges will be made for calls between any subscribers in the Company's area.

This comprehensive program, costing approximately $200,000, is designed to furnish adequate and modern telephone service to all of those potential subscribers desiring the service in the area applied for by the Company. The Company has made a survey of the area to determine those that desire service, and to delineate its area boundary in accordance with the community of interest of the population. Applications for service, in petition form, were presented in evidence. Testimony revealed that the area, with natural boundaries on two sides, reasonably represented the community of interest centered in Tuckerman, Swifton, and Alicia, and that the boundary lines were carefully designed with that in mind.

The project contains proposals for

the rehabilitation, expansion, and conversion of the existing exchanges at Tuckerman and Swifton. Comparatively large expenditures will be involved; but when consideration is given to the present inadequate magneto service, the necessity for expansion of the existing cable facilities in order that prospective town and rural subscribers may be connected, the depreciated condition of the Swifton plant, and the conversion from manual to dial operation as an operating expense saving as well as a more modern type of service, the necessity for such proposal becomes apparent.

The project contains provisions for the construction of 104 miles of rural line to serve approximately 320 rural subscribers. The evidence reflects that some prospective subscribers were not included in the estimate of the Company because they could not be contacted during the survey; but provision has been made in service capacity for these prospective customers, and for normal growth. When the proposed construction is considered in the light of the applicable circumstances, we must conclude that the area is well covered for the present. Of course, additional extensions may become necessary within the area at some future date.

[1] In approving the construction of these rural lines, and in finding that their construction is required by public convenience and necessity, we must do so in the light of the provisions of Public Law 423, 81st Congress. That law declares it "to be the policy of the Congress that adequate telephone service be made generally available in rural area though the improvement and expansion of existing telephone facilities and the construction and operation of such additional facilities as are required to assure the availability of adequate telephone service to the widest practicable number of rural users of such service." The act goes on to amend the Rural Electrification Act of 1936 to make its provisions generally applicable to rural telephone development.

It is evident, then, that standards of economic feasibility applied to construction of telephone facilities in prior proceedings before this Commission will not necessarily be controlling in cases arising under this new law. What is not economically feasible under high cost private financing may be feasible under lower cost Federal financing. Under Public Law 423, we believe it to be the policy of the Congress that feasibility of individual lines be determined, not only upon the number of subscribers on a particular line, but also in relation to the number of subscribers on other lines in the area. The result here is that this entire area project is feasible, although some lines do not measure up to the required number of subscribers per mile.

Adopting the above standards, we find that the proposed construction of 104 miles of rural lines is economically feasible, that it will be in furtherance of the policy declared in Public Law 423, and that it will be in the public interest.

[2] The Company proposes to render dial service throughout its entire area without a toll charge for calls between any of its subscribers. This is predicated upon the theory that all of the subscribers lie within a single community of interest and should therefore be attached to a single ex-

change. This is not a new theory, although it is not always practiced. Toll charges within a given area, which area embraces but one community of interest and is therefore a single unit, are sometimes made; but they are practical revenue expedients rather than charges based upon subscriber interest and value. In this case, where new subscriber rates are being introduced for an entire area, and where distances between all subscribers are relatively short, it appears that the Company's proposal is sound and reasonable.

[3] The question of the possible duplication of facilities was raised during the course of the hearing. The Commission finds that this project will result in no duplication. The Southwestern Bell Telephone Company owns only toll facilities in the area, and there is no other operator providing telephone service. Southwestern Bell connects the Company at Tuckerman and Swifton, and has a toll station at Alicia. The trunk lines from Alicia to Tuckerman and Swifton to Tuckerman cannot be classed as duplication of Southwestern Bell's toll lines between these and other towns. The Company's trunks are for the providing of exchange service within a unified area, whereas the Southwestern Bell toll facilities provide only long-distance service between individual towns.

The Commission is not at this time asked to pass upon the rates as such, but must do so generally in its review of the feasibility of the project and the soundness of the revenue estimate. The proposed subscriber rates to be charged are based upon the construction of the entire project, and upon a fair return upon the investment as a whole. They appear to be reasonable, measured by rates for similar type service. They are apparently within the limits of value and desire of the subscribers, inasmuch as the proposed rates were explained to the subscribers at the time the petitions for service were signed by them.

The estimate of operating expenses is based upon operating conditions present in the Company and expanded to the proposed operation. The officers of the Company, which may be relatively termed an "infant enterprise," will draw no salaries for their time until the Company has become a going concern; thus the operating expense is relatively low, but there appears to be ample cushion for reasonable increase.

It appears from the testimony and exhibits that the net revenue is sufficient to provide for depreciation, taxes, interest, and debt retirement, with adequate margin for unforeseen expense or loss. Thus the project is economically feasible and with sufficient assurance of the retirement of its debt.

[4] The company proposes to refinance its existing 3 per cent 6-year first mortgage debt with 2 per cent 35-year funds to be provided from a loan from the Rural Electrification Administration under the terms of Public Law 423, 81st Congress. Inasmuch as this refinancing ($12,600) constitutes but a small fraction of its proposed loan of $218,000, and is necessary in order that a first mortgage may be given on the entire property, the Commission believes this is reasonable and proper.

[5] The Company has asked "au-

thority to negotiate" a loan of $218,000 from the Rural Electrification Administration (under the provisions of Public Law 423) for the finnancing of the project. Since the entire project, as is shown by the application, exhibits, and testimony, is based upon the ability of the Company to secure this financing, this grant of authority by the Commission to the Company may be unnecessary. But if, under the terms of Public Law 423, such grant is necessary, we find that it should be made. This new source of financing, dedicated to the development of rural telephone service, entails a reconsideration of the capital ratios generally required by the Commission. The Congress has recognized that rural telephone service on a large scale cannot be provided generally without low-cost, long-term money, and this was apparently anticipated by it upon the same basis as the rural electrification financing. The Commission is mindful of the needs of such financing in the proper development of rural telephone service in Arkansas, and of the need to promote and encourage the introduction of rural telephone service on a broad scale in the state of Arkansas. It will therefore make allowances in its policy regarding capital ratios in order that over-all financing may be had in accordance therewith. To do otherwise would stifle the widest expansion, which expansion is the purpose of the availability of the low-cost, long-term financing.

[6] The prayer of the Company requests that subsection i of § 2 of Rule 6 of the Commission's Rules of Practice and Procedure be waived. This rule provides that construction must be started within four months of the granting of a certificate. The Company contends that it is embarking upon a new venture and a new method of financing, and that it cannot estimate the date at which it will be able to comply with all the requirements of its prospective lender; therefore it may not be able to begin construction within four months. The Commission understands this, but is reluctant to waive its rule entirely. Therefore, it will modify the rule to the extent that construction must be begun within four months from the date of the loan commitment, or six months from the date of this order, whichever is later. If developments prove that this period should be extended, the Commission will make such extensions as from time to time are necessary.

The Commission has examined the application and evidence in each and every particular in the light of Public Law 423; and we have carefully studied the provisions of that law. We find that the area sought to be served by the construction and rehabilitation is a rural area within the meaning of that law, and that the applicant has complied with its provisions in every material respect.

The Commission finds that the project, as set out in the application, is in the public interest and that the application, subject to the revisions set out in the preceding paragraphs, should be approved.

McCULLOCH, JR., Commissioner, concurring:

Preliminary Remarks

This writer is completely in accord with the findings and order of the majority of the Commission, except as

specifically set out in the ensuing opinion.

My point of difference with the majority is as to the attitude we should take with respect to the allocation of areas to be served by telephone companies. Since this case will set a precedent which will probably control us in this field for many years to come, I believe that a discussion of the issues involved is in order.

The Instant Case

The legal effect of an allocation of area or territory by this Commission to a utility has never been satisfactorily determined. The Commission has made allocations in the electric field for a number of years, and our authority to make them has not been passed upon by the courts. This may be because the Commission has never stated definitely what rights accrue to a utility which is operating in an allocated area. It may be that these allocations amount to exclusive franchises, revocable or alterable only because of nonuse or misuse. Possibly the allocation only means that the utility has the responsibility and the right to provide service throughout the area, and that this responsibility and right can be withdrawn at any time the Commission sees fit. But, whatever definition is applied to the term "allocation of area, or territory" the allocation carries with it some rights and privileges, which, in my opinion, should be restricted to the area projected for immediate service.

We have never made allocations of territory to telephone utilities. However, the companies have filed with the Commission various "rate areas," which merely reflect the territory presently served by the companies and the rates charged to subscribers within that area. There has never been any recognition by this Commission of any rights or privileges accruing to a telephone utility merely because it may have on file a rate area. The Company might possess such rights or privileges, of course, but they arise from some other source.

The applicant Company has conducted a survey of a certain area in Jackson and Lawrence counties, and has asked us to allocate to it this area for telephone development. The Company asks for this allocation in addition to asking for a certificate to construct certain lines within the area, with authority to serve all subscribers adjacent thereto. I am heartily in favor of granting the certificate for construction and service, but I see no need at this time to allocate to the Company any area for future service. If, after its present program is under way, it develops that extensions should be made to the presently proposed lines, or that new lines should be built within an area then determined to be properly serviceable by this Company, then the Company should return to the Commission and request authority to make those extensions and additions, and to add the proposed new subscribers. Further, if after the present program is under way it appeared upon investigation that the Company should have included other lines and subscribers in its present program, or in some future program, I should feel little hesitancy in ordering the Company to make those inclusions.

On the other hand, the Company definitely should not be bound by the area which it is presently seeking. If

future developments reveal that subscribers outside the presently sought area should be served by the Company, then the Company should render that service. Such service might even be within what is now a rate area of some other telephone company, if the latter company is not actually providing service.

Therefore, if the proposed area boundary may shrink or expand in the future, why is it necessary to establish any area boundary at all? The principal result, in my opinion, of the establishment of such a boundary is to permit the company receiving the allocation to rest on its laurels within the area, and to take its own good time in providing full area coverage. If there were no boundary between X Company and Y Company, and there were a no-man's land of nonserved area between X and Y, then the two companies would tend to extend their lines as rapidly as possible. Such extensions would eliminate the no-man's land at a much earlier date than under the area allocation procedure. In my opinion, we should adopt a policy which will provide telephone service to all rural areas within the state as rapidly as possible. Such a policy would definitely be in furtherance of the intent of the Congress as expressed in Public Law 423.

My sentiments in this matter are influenced to some extent by the experience of this Commission in dealing with the development of electric service in this state. In the incipient stages of the vast rural electrification program begun in Arkansas in the 1930's, the Commission adopted the policy of allocating areas as between the electric coöperatives on the one hand and the private electric companies on the other, and between the companies and coöperatives themselves. Ever since that time, the coöperatives and the companies have been referring to those areas as "our territory," even when they were providing absolutely no service in certain parts of the areas. Many complaints have been filed with the Commission during this period by persons residing within the allocated areas. These persons were not receiving service from the source designated in the area allocation, and often it has been the case that a coöperative or company near-by (although in another "territory") was ready, willing, and able to provide the desired service. Why should a subscriber be deprived of service merely because he is in X's territory when Y is ready to serve him? Or, why should it be necessary for this Commission to conduct a full-dress hearing to determine whether X has been so lax as to justify a reallocation? In addition, some utilities have neglected areas already allocated to them, while at the same time they have attempted to entice prospective customers away from an adjoining utility. Such friction and unrest was the natural result of the policy adopted; and, in my opinion, much of this difficulty would have been obviated had there been no area allocations.

In the final analysis, it may be asked, "What is the need for an area allocation?" What possible detriment to the company or to the subscribers could possibly result from our refusal to say to the Company, "Yes, you may take this entire area as your very own, even though you have no present plans for providing complete area coverage." I see neither need nor detriment. But,

if we do adopt this policy, I see only pitfalls ahead.

It is only fair to say, however, that the application in this case does not violate, in point of excessive area requested, my guiding principles nearly so much as have some applications in the past. There will be very little unserved territory in the requested area when the proposed lines are constructed. But, even this excess is sufficient to illustrate the danger of allocations as a general policy.

For the above reasons I must respectfully dissent from the portion of the order in this matter which allocates the area as delineated by the Company's Exhibit No. "A" to the Company. In all other respects the views of the order substantially reflect my views.

CALIFORNIA PUBLIC UTILITIES COMMISSION

Re Associated Telephone Company, Limited

Decision No. 43423, Application No. 30339
October 18, 1949

APPLICATION *for authority to increase telephone rates and charges; interim increase granted.*

Return, § 24 — Interim telephone rates — Necessary construction.

1. A telephone company confronted with the problem of obtaining funds to carry forward a necessary construction program is entitled to an interim increase in rates if net operating revenue does not yield a reasonable return, p. 27.

Rates, § 555 — Telephones — Wall-set differential.

2. A telephone company was authorized to eliminate from its rate schedule a wall-set differential for future installations, p. 27.

Rates, § 311 — Telephones — Change of instrument charge.

3. It was considered appropriate for a telephone company to waive a charge for a change from a wall- or desk-set instrument to a hand-set instrument, p. 27.

APPEARANCES: Marshall K. Taylor, Donald C. Power, and O'Melveny & Myers by Harry L. Dunn and Sidney H. Wall, for applicant; K. Charles Bean, T. M. Chubb, and Roger Arnebergh, for the city of Los Angeles; J. J. Deuel and Edson Abel, for the California Farm Bureau Federation; Henry M. Busch, for the cities of Ontario and Upland; William J. Donahue, for Aerojet Engineering Corporation; Joel E. Ogle, for the county

of Orange; Emmett J. Ward, for the director of the state department of finance, state of California; Irving M. Smith and Joseph B. Lamb, for the city of Long Beach; H. R. Griffin, for the city of San Bernardino; Carroll Weberg, for the Bellflower Chamber of Commerce.

By the COMMISSION:

Interim Opinion

By the above-entitled application, filed on May 24, 1949, and as amended on August 22, 1949, the Associated Telephone Company, Ltd., seeks authority to increase certain telephone rates and charges in the amount of $2,493,680 annually. The applicant is a California corporation engaged in furnishing telephone exchange and toll service to over 350,000 telephone stations in 28 exchanges located in the counties of Los Angeles, Orange, San Bernardino, and Santa Barbara.

Public hearings on Application No. 30339 were held on September 15 and 16, 1949, in Los Angeles before Commissioner Huls and examiner Howard, and on October 3, 1949, before examiner Chiesa. During the course of these hearings, testimony was introduced by the Associated Telephone Company, Ltd., in support of its application and its witnesses were cross-examined by the Commission's staff and by certain interested parties. On September 15, 1949, counsel for the applicant moved that the Commission immediately grant on an emergency and interim basis such portion of the rate increases sought as it believes just and proper. Representatives of the cities and other organizations generally opposed the granting of any interim increases at this time. The motion was not submitted and the proceeding was adjourned to October 3, 1949, in Los Angeles, to provide the interested parties further opportunity to cross-examine the applicant's witnesses. On October 3, 1949, following further testimony, the applicant renewed its motion for interim rates, at which time the motion was taken under submission and the hearing adjourned to a date to be set.

The evidence as to earnings presented by the applicant is related to the results for the six months ending June 30, 1949, to the estimated results for the six months ending December 31, 1949, and to the estimated results as of December 31, 1950, all extended to an annual basis. These results are:

	Six Months Ending June 30, 1949	Period Six Months Ending Dec. 31, 1949		As of Dec. 31, 1950
Item	Present Rates	Present Rates	Co. Prop. Rates	Co. Prop. Rates
Revenues	$16,071,698	$16,892,653	$19,371,084	$22,784,026
Expenses	13,867,425	14,826,258	15,820,307	18,860,839
Net Revenue	2,204,273	2,066,395	3,550,777	3,923,187
Avg. Net Rate Base	47,869,984	54,664,622	54,664,622	73,497,387
Per Cent Return	4.60%	3.78%	6.50%	5.34%

The evidence shows that a downward trend in earnings exists, but not to the degree indicated by the applicant's estimates. A witness for the applicant, under cross-examination, agreed that, based upon the actual experience in recent months, the toll revenues for the 6-month period ending

December 31, 1949, on an annual basis would be approximately $200,000 higher than shown in the applicant's estimates. Applicant's witness also stated that the revenue estimates did not include approximately $38,000 which, on an annual basis, will accrue to the applicant by reason of increases in the message unit rates of the Pacific Telephone and Telegraph Company, effective September 1, 1949, pursuant to Decision No. 43145, 80 PUR NS 355 of this Commission.

By reason of the continued rapid population growth and increase in demand for telephone service in the territory served by the applicant, a substantial growth has occurred in the applicant's plant and facilities during the past several years. The evidence shows that from January 1, 1947, to July 31, 1949, applicant's investment in telephone plant in service increased from $33,093,337 to $63,196,415, or 91 per cent. During the same period, applicant's telephone stations increased from 215,939 to 352,482, or 63 per cent. The applicant's construction program is estimated to increase the investment in telephone plant in service approximately $14,480,000, or 27 per cent, in 1949 and approximately $17,900,000, or 26 per cent, in 1950. One of the primary purposes of this large plant expansion program is to provide sufficient facilities to furnish service to applicants waiting for telephone service, of which there were 23,263 as of June 30, 1949.

[1] The company's estimate of net operating revenue does not yield a reasonable return on its estimated net investment in properties used by it to render telephone service. In view of the fact that the company is confronted with the problem of obtaining funds to carry forward its construction program, an interim increase in rates is justified. Based on the testimony developed in this record, an interim order will be entered authorizing rate increases aggregating about $1,100,000. These increases are subject to adjustment at the time the final decision is rendered on this application.

The evidence shows that most of applicant's rates and charges for telephone service have not been increased since 1921 or prior thereto, although there have been certain reductions in rates. The increases which the applicant proposes are set forth in detail in Exhibit C attached to the first amended application. Increases are proposed in basic rates for business and residence individual-line and party-line service, as well as in rates and charges for extension stations, private branch exchange service, service connection and move and change charges, miscellaneous and supplemental equipment charges, private line, and toll telephone rates.

The interim rates authorized herein make no change in basic rates for business and residence individual-line and party-line service. Including suburban and farmer-line service. The increases in rates, authorized herein, are set forth in Exhibit A attached hereto [omitted herein]. Such increases in miscellaneous exchange rates are no higher than applicant proposes and in a number of instances are lower.

[2, 3] Increases in service connection and move and change charges authorized herein are estimated at $287,000 on an annual basis, including increases for installation of busi-

ness stations from $3 and $3.50 to $7, residence stations from $2.50 and $3.50 to $5, and extension stations and move and change charges from $1.50 to $3. It is proposed to continue the 25-cent wall-set differential to existing installations only. The elimination of the wall-set differential for future installations is authorized and it also appears appropriate to waive the move and change charge for a change from a wall- or desk-set instrument to a hand-set instrument.

Installation charges are authorized and monthly rates increased for manual and dial PBX switchboard positions and for automatic PBX switching equipment. Rates for PBX flat rate trunk lines are 50 per cent higher than the rate for individual line primary stations. Increases are also made in rates for intercommunicating system service, multiple line key cabinet service, and for receiving cabinet service. These changes are estimated to result in an increase of $308,000 in annual revenue.

Increases in installation charges and monthly rates for a number of items of supplemental equipment are estimated at $147,000 on an annual basis.

Business extension and PBX stations are increased in general by 25 cents per month and the discount for auxiliary line business service is eliminated. Mileage rates for off-premises extension and PBX station lines are increased, and in general the airline basis of measurement is substituted for circuit measurement. Rates for joint user service in connection with business lines are also increased. The combined effect of these changes is to increase annual revenues $178,000.

Other miscellaneous changes authorized include an increase from $3 to $5 per month for interexchange receiving service; and increases in rates for certain foreign exchange service, vacation rate service, private line and mobile telephone service. It is estimated these changes will increase revenues by $75,000 on an annual basis.

The applicant proposes increases in rates for message toll telephone service, which it is estimated will increase annual revenues $105,000. These increases in toll rates will be authorized.

It should be understood that while the company's direct presentation has been completed, neither the other parties nor the Commission's staff as yet has presented evidence.

Re Interstate Telephone Company

Case No. F-1455, Order No. 2020
December 30, 1949

APPLICATION *of telephone company for partial revision of rates and charges; increased rates approved.*

Return, § 24 — Financing of telephone conversion — Need for additional revenues — Increased wages.

1. A telephone company was authorized to increase rates where additional revenues were required because of a wage increase allowed employees in settlement of a strike and the present earnings were so low as to affect seriously the company's ability to obtain financing necessary for the continuance of its conversion and expansion program, p. 30.

Return, § 111 — Telephones — Reasonableness.

2. A telephone company's return of 6.09 per cent on its rate base was considered fair and just and not unreasonable, p. 31.

By the COMMISSION: This proceeding was instituted by the Interstate Telephone Company, an Idaho corporation, by the filing of an application and supplement thereto, praying for an order of this Commission authorizing the company to put into effect new tariffs in accordance with schedules attached to said application and supplement thereto.

Due and legal notice was given by the Commission as appears by its records and files herein, in accordance with the statutes and regulations in such case made and provided.

Said matter was regularly set for hearing at Moscow, Idaho, on November 7, 1949, in the Federal courtroom. The entire Commission was present and the following appearances were made: R. E. Larsen, Utilities Auditor, the Public Utilities Commission, Statehouse, Boise; Wm. S. Hawkins, Attorney, Coeur d'Alene, representing the Interstate Telephone Company; John R. Matthews, Robert Binyon, and Robert R. Dwyer, protestants, representing the Wallace Chamber of Commerce; Roy Morris, protestant, representing the Kellogg Chamber of Commerce; William Smith, protestant, representing the Mount Deary Grange, Deary; Gilbert Paroz, intervenor, representing the Kennedy-Ford Grange, Potlatch; James S. Hill, protestant, representing Idaho State Hotel Association; James E. Parsons, protestant, representing the Sandpoint Chamber of Commerce, Sandpoint Lions Club, and Kootenai Grange; Ira A. Robson, Kellogg, intervenor, Assistant Secretary, Bunker Hill & Sullivan Mining & Concentrating Co.; Morton Telephone Company, Sandpoint, protestants.

The applicant presented both oral and documentary evidence in support of its application.

The Interstate Telephone Company is an Idaho corporation with its principal place of business and post-office address at 165 South Howard street, Spokane 8, Washington. The company operates a general telephone local exchange and toll business in the states of Idaho, Washington, and Montana.

[1] The record shows that after several months of negotiations between the applicant and Local Union 77 of the International Brotherhood of Electrical Workers, a strike was called against the company beginning on September 9, 1949, and ending on September 19, 1949, a period of eleven days, culminating in an agreement dated September 19, 1949. By the terms of this agreement, working conditions and pay schedules were revised so as to materially increase cost of operation of this company. This wage increase will affect the cost of operations in the state of Idaho in an amount estimated at $68,760. To compensate for this wage increase together with the across-the-board wage increase granted in October, 1947, and the increased cost arising out of the financing of the completed and proposed plant expansion and dial conversion, the company filed tariffs and schedules estimated to produce additional revenue of $95,306 in Idaho.

The record is clear that the low earnings occasioned by the wage increase will seriously affect the ability of the company to complete the necessary financing for the successful continuance of its expansion program. This company has embarked upon a program of the conversion of its manual offices in Idaho to dial operation. This program of course the Commission is in sympathy with, and can welcome a successful conclusion and results of such operation will be of considerable aid to the Commission in making further decisions in telephone matters.

To carry out such a program will require large amounts of new capital during the next three years, and the ability of the company to attract and borrow this new capital is dependent upon its ability to maintain an adequate earnings position.

The record is not sufficient for us to make use with absolute certainty the usual rate base in every respect to determine a fair and reasonable return upon its Idaho operation at this time in view of the rapidly changing conditions. In any event, we find that relief must be afforded.

The Commission can use the average investment as recorded on the books of this company as of August 31, 1949. In addition by doing so the Commission will have a test as to the reasonableness of any increase that may be indicated. To do this we arrive at the average telephone plant and working capital of the applicant for the year ending August 31, 1949, as follows:

Telephone Plant in Service	$2,806,680
Telephone Plant under Construction	241,110
Telephone Plant Acquisition Adjustments	107,688
Materials and Supplies	314,763
Working Cash	64,552
Gross Investment in Plant	$3,534,893
Less Depreciation Reserve	872,108
Average Net Investment in Plant	$2,662,785

[2] The record is sufficient and clear enough for us to allow such an increase in rates and charges to add revenue that will maintain the earnings position on somewhat the same level that prevailed prior to the wage increase of September 1949. To do this, the Company will be allowed an this, the company will be allowed an duce $81,786. The estimated operating results will then be as follows:

Total Operating Revenues		$1,211,013
Operating Expenses	$874,905	
Taxes	173,777	
Total Revenue Deductions		1,048,682
Net Operating Income		$162,331
Average Net Investment		$2,662,785
Operating Ratio		6.09%

The return produced as enumerated above, the Commission finds, is fair and just and not unreasonable. In view of the changing conditions hereinbefore alluded to, the Commission feels that it should keep this matter in contemplation for further orders, either for correction or adjustment at such time as the affairs of the company produce a comparatively stabilized operation.

Therefore, the company should furnish monthly information of its financial conditions.

Therefore it is *ordered,* that the Interstate Telephone Company submit revised tariffs and schedules that will add additional revenue in the amount of $81,786.

It is *further ordered,* that commencing with the month of January, 1950, the company furnish to this Commission each month, Forms No. SC100-A, SC100-L, SC101, and SC106.

It is *further ordered,* that the new tariffs and schedules become effective the first billing date after January 15, 1950.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

James Brison Bickerton

v.

Township of Jefferson, Allegheny County

Complaint Docket No. 14816
November 28, 1949

COMPLAINT *by tank truck operator against town's alleged illegal transportation or sale of water; dismissed.*

Municipal plants, § 9 — Commission jurisdiction — Transportation or sale of water.
A municipality engaged in the business of water transportation or in the business of furnishing water to or for its residents for compensation is not subject to Commission jurisdiction, since Commission jurisdiction over municipally owned utilities is limited to operations beyond corporate limits.

By the COMMISSION: James Brison Bickerton, complainant in this proceeding and holder of a certificate of public convenience at Application Docket No. 70292, is thereby authorized to transport domestic water in tank trucks between points in the city of Clairton, Allegheny county, and within 25 miles of the limits thereof, and is transporting thereunder domestic water in tank trucks to residents of the township of Jefferson. Complainant alleges that the township of Jefferson, respondent, is purchasing water from Monongahela Valley Water Company and is drawing the water from fire hydrants located in the township of Jefferson for sale and delivery to its residents by means of improvised tank trucks converted from road maintenance equipment. Complainant alleges that respondent is engaged in the business of transporting domestic water to its residents, and as such is engaged in a competitive business with complainant illegally, improperly, and contrary to the laws of the commonwealth of Pennsylvania.

The township of Jefferson, respondent, by demurrer, moves to dismiss the complaint on the ground that the Pennsylvania Public Utility Commission has no jurisdiction over the actions of the township of Jefferson, a municipal corporation of the commonwealth of Pennsylvania. That motion is now before us for disposition.

The Public Utility Law of May 28, 1937, P. L. 1053, as amended, an act relating to and providing for the regulation of public utilities, includes municipally owned utilities only to the limited extent of utility operations beyond corporate limits. Section 2(9), 66 PS 1102(9).

Under the circumstances, regardless whether or not respondent is engaged in the business of transportation or in the business of furnishing water to or for its residents for compensation, the Commission is without jurisdiction to regulate the operation of such activities by respondent, or otherwise consider and pass upon the extent of its powers and rights as a municipality to engage in such activities; therefore,

It is *ordered:* That the motion of the township of Jefferson, respondent, to dismiss the complaint of James Brison Bickerton, at Complaint Docket No. 14816, for lack of jurisdiction, be and is hereby granted.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

Consumers Power Co. to Spend $40,000,000 For Construction

CONSTRUCTION expenditures of more than $40,000,000 to expand electric and gas facilities is being planned by Consumers Power Company during 1950 according to D. E. Karn, vice president and general manager.

The program of electric generating units is going forward with the completion of the third 60,000 kilowatt unit at the B. C. Cobb plant at Muskegon and the building of the new generating plant on Lake Erie. This new plant will reinforce the electric service in the southern part of Consumers' integrated system. The building is designed for two 85,000 kilowatt generating units, the first of which is scheduled to go into service in 1952. New transmission lines, substations, distribution lines, and facilities to complement this growth in capacity are all scheduled for construction during the present year.

In the gas branch of the business many new lines will be built, and others reinforced. This will involve large expenditures in all the gas divisions, together with added facilities to be built by Consumers' subsidiary, Michigan Gas Storage Company. The principal item in this company's program will be the construction of forty-six miles of added transmission main leading into its storage fields. The Company plans to extend gas service to several additional communities during the year.

In addition to these expenditures, Mr. Karn said, some $5,000,000 of this year's budget will be spent in the general classification which includes automobiles, furniture, tools, and service buildings.

Bulletin Deals with Floor Resurfacing Problems

A SPECIAL bulletin dealing with the problems of resurfacing service floors of various types has been issued by United Laboratories, Inc., of Cleveland, Ohio.

This folder describes four general types of materials for renewing old floors. It outlines the conditions under which each type of material should be considered and points out that each type of floor has its individual problems.

The folder is free of charge and available on request.

Esselen Elected Vice President Of U. S. Testing

THE UNITED STATES TESTING COMPANY, INC., has elected Gustavus J. Esselen as vice president, it was recently announced by Allen L. Brassell, president. Dr. Esselen will continue in active direction of the Esselen Research Division of the United States Testing Company, Inc., recently created by the merger of the Esselen Research Corporation with the United States Testing Company, Inc.

Dr. Esselen has been active in applying chemistry to industry for the past twenty-nine years. During the war he was consultant to the Baruch-Conant-Compton Rubber Survey Committee. Later he was chairman of the Tropical Deterioration Administrative Committee. He was also a member of the Chemical Referee Board of the Office of Production Research and Development. Dr. Esselen is chairman of the American Section of the Society of Chemical Industry of Great Britain. For two terms he served as director of the American Chemical Society and also of the American Institute of Chemical Engineers.

The staff of the Esselen Research Division has been active in research in many fields. It will have its headquarters in Boston.

Purivac Unit Promotes Greater Transformer Efficiency

A NEWLY designed "Purivac" purification system for insulating oils, reported to eliminate acidity, moisture, and sludge and to completely restore dielectric strength, all in one operation, is announced by the Honan-Crane Corporation, Lebanon, Indiana.

The manufacturer states that regular Purivac purification promotes greater transformer efficiency by maintaining clean oil of consistently high dielectric strength, and eliminates costly power failures and transformer cleaning operations by preventing accumulation of sludge and contamination.

Full information may be obtained by writing to the Honan-Crane Corporation, 606 Wabash avenue, Lebanon, Indiana.

Westinghouse Appointment

A. A. JOHNSON has recently been appointed manager of central station engineering in the industry engineering department of the Westinghouse Electric Corporation. Mr. Johnson succeeds Dr. Charles F. Wagner who has recently been named consulting engineer for the company.

Union Electric Plans $37,000,000 Program

THE 15-year expansion program of Union Electric Company of Missouri will be accelerated in 1950 with an estimated $37,000,000 to be spent on new construction. This is an in-

(*Continued on Page 22*)

crease of $2,000,000 over last year. The company had budgeted $42,000,000 for construction in 1949, but delays in securing certain transmission rights of way and other factors held the actual expenditures last year to $35,000,000. The net result of these delays was an increase in the 1950 budget.

A large portion of the new budget, approximately $11,000,000, will be spent to complete the fourth section of the Venice II plant. Further work on four boilers at Cahokia will cost another $700,000 in the current year. Work on the new 138,000 volt transmission lines destined to carry the increased output of Venice and eventually interconnect with Meramec plant will cost about $8,500,000.

Among other expenditures planned by the company next year is an estimated $1,800,000 to be spent on the new service building at 18th and Gratiot streets.

Much of the amount in the remaining $13,000,000 scheduled for miscellaneous expenditures, will be used for other transmission, subtransmission and distribution facilities.

Estate Introduces 1950 Line of Ranges

ESTATE's 1950 line of ranges has been designed to continue features and styling whose enthusiastic acceptance last year has necessitated sharp stepping up of Estate's productive capacity. The number of models in the line has been consolidated in an effort to provide a line composed entirely of "fast movers."

The general price range for 1950 is the same as for last year—with gas ranges starting at $149.95, electric ranges at $189.95, retail in Zone 1.

Central Arizona Lt. & Pwr. Plans to Spend $8,780,000

CENTRAL ARIZONA LIGHT AND POWER COMPANY plans to spend $8,780,000 on construction during 1950. This will make a total of nearly $30,000,000 that the company will have spent during its postwar expansion program, President Henry Sargent announced.

Following is a breakdown of the 1950 budget by departments: Electric production, $4,688,120; electric transmission, $333,670; electric distribution, $1,295,900; gas, $2,149,030; and common property, $314,080.

IBM Appointment

CHARLES E. LOVE, general sales manager of International Business Machines Corporation, was elected vice president in charge of sales at a recent board meeting.

Mr. Love joined the company in 1932 as a student sales representative and later served in several sales executive capacities. He subsequently became instructor of sales in the employees' training school and then served successively as electric accounting machine division manager in Boston and Chicago.

In 1944 he entered the United States Navy. He returned to IBM as sales manager of its Western district, and was appointed general sales manager in 1947.

How attractive can a Substation be?

Maybe you've hesitated to take advantage of the many benefits of locating your substations close to the load because you were afraid of the reaction of placing substations in residential districts.

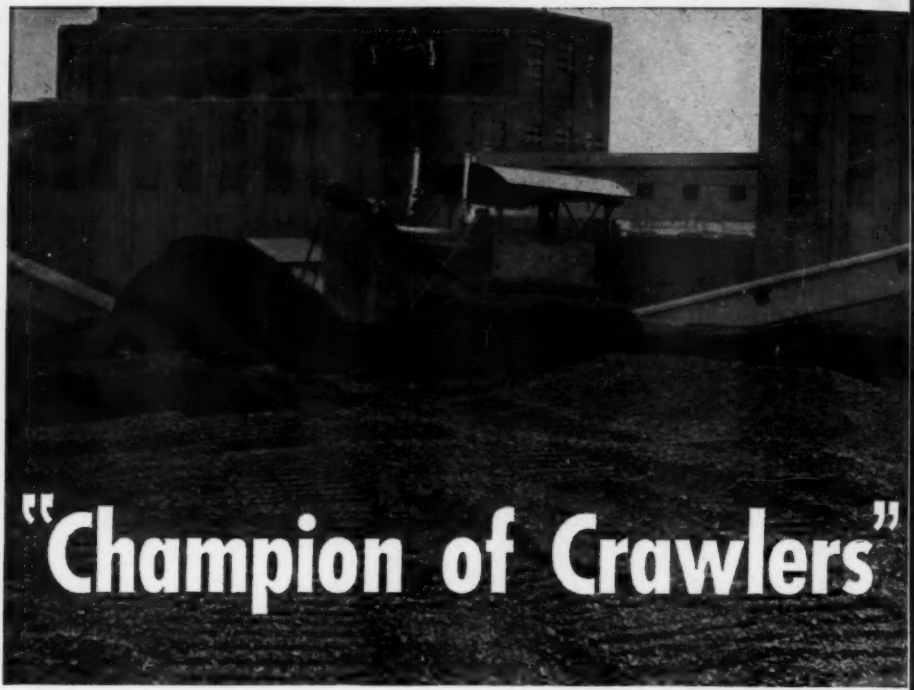
Other utilities felt the same way too, until they investigated the advantages of General Electric unit substations outlined by our engineers.

They were told that substations literally can be "dropped" in anywhere on the system to take care of present and future load demands.

And with a little incidental landscaping, the substations became an inconspicuous part of the community.

We'd like to show you more examples of how other utilities integrated G-E unit substations into their planning. We'd also like to tell you about the many advantages—such as lower costs and increased reliability—of G-E load center power distribution. Give us a call at the office, or write for brochure GEA-5155 that shows how other utilities took advantage of G-E engineering and service. *Apparatus Department, General Electric Co., Schenectady 5, N. Y.*

GENERAL ELECTRIC



The New INTERNATIONAL TD-24

Contractors are not the only ones who hail the International TD-24 as the "Champion of Crawlers." In competitive tests on coal stockpiles, as well as in daily use by coal handlers and public utilities, this tractor continues to earn its championship title.

The big TD-24 shown above works two shifts a day—16 out of every 24 hours—stockpiling coal and feeding it to chutes of the Atkinson plant of Georgia Power Co., Atlanta.

"I'd rather operate the TD-24 than any other," says operator F. M. Rutedge. *"It's easier on a man. When you operate tractors for a living, you want the easiest. And the power is there when you want it."*

Superintendent R. S. Causen, who estimates the TD-24's operating cost for fuel and lubrication at less than 48¢ an hour, has good reason to say, *"The TD-24 is doing a good job for us in all respects."*

Ask your International Industrial Power Distributor to give you a demonstration of the TD-24's championship performance. No other crawler can match it in power, speed, maneuverability or ease of operation. No other can approach it in work capacity. In every respect it's the "Champion of Crawlers." Get yours ordered now—and have plenty of power when you want it.

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PROFESSIONAL DIRECTORY

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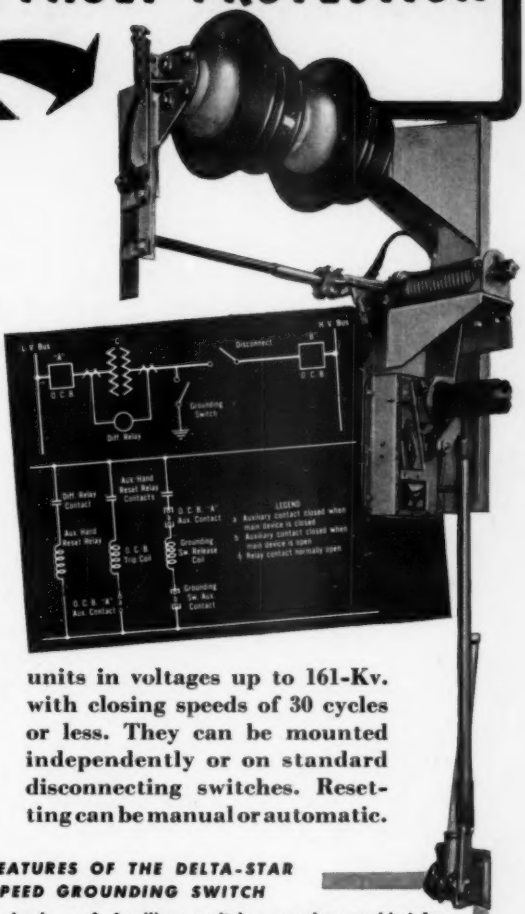
TRANSFORMER FAULT PROTECTION FOR LESS!

Delta-Star "SG" high-speed grounding switches offer a low cost means of transformer protection, in many cases replacing more costly circuit breakers or pilot wire schemes.



Many system layouts are such that a circuit breaker at the far end of a line can be used for isolating a transformer bank when trouble occurs. This method usually requires the use of an expensive pilot wire or carrier system to transmit the tripping impulse to the remote breaker. Deliberately grounding of the line at the transformer offers a lower cost means of tripping remote breakers. A conventional disconnecting switch can be included for isolation of the transformer to permit restoration of the line.

These grounding switches are available as single or multi-pole units in voltages up to 161-Kv. with closing speeds of 30 cycles or less. They can be mounted independently or on standard disconnecting switches. Resetting can be manual or automatic.

OUTSTANDING FEATURES OF THE DELTA-STAR "SG" HIGH-SPEED GROUNDING SWITCH

1. **High pressure contacts. Inertia type shock absorber reduces shock to insulator and blade.**
2. **Light weight, reinforced blade is of ample thermal capacity to withstand short circuits.**
3. **Switch blade is coupled directly to spring mechanism for maximum efficiency.**
4. **Auxiliary switches can be provided for interlocks, pilot lights, etc.**
5. **Trip-free, latching type closing mechanism for either AC or DC service.**
6. **Resetting may be either manual or automatic.**

DELTA-STAR ELECTRIC COMPANY

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9. Determines whether minimum charge applies.
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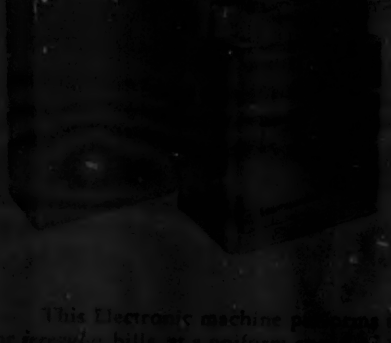

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